

IN THE HIGH COURT OF FIJI

AT SUVA

MISCELLANEOUS JURISDICTION

MISCELLANEOUS CASE NO. HAM 246 AND 256 OF 2013S

- 1. JOSEVATA LESUMAILODONI**
- 2. VILIAME QATIVI**
- 3. APIMELEKI WAQANICEVA**

VS

THE STATE

Counsels : Ms. S. Vaniqi for all Applicants
Ms. M. Fong for Respondent

Hearing : 28 November, 2013

Rulings : 28 November, 2013

Written Reasons: 24 March, 2014

WRITTEN REASONS FOR DENIAL OF BAIL

1. In Miscellaneous Case No. HAM 069 of 2013S, I denied the three applicants' bail applications, and gave detail reasons of why I did the same. In Miscellaneous Case No. HAM 148 of 2013S, they re-applied for bail, pending trial. On 11 October 2013, I again denied them bail, on the ground that there was no change in circumstances, from the bail ruling I delivered in Miscellaneous Case No. HAM 069 of 2013S.

2. They re-applied for bail pending trial in Miscellaneous Case No. 246 and 256 of 2013S. I dealt with the case together, and heard them on 28 November, 2013. I again denied their bail applications on the same day, and said I would give my reasons later. Below are my reasons.
3. Since these were the applicants' third and fourth bail applications, the issue really was whether or not there was a change in circumstances.
4. Ms. Vaniqi initially argued there was a change in circumstance, given the effect of the 2013 Constitution. She initially argued that the 2013 Constitution had abrogated the Bail Act of 2002. However, after further discussions with the court, and the prosecution, she finally accepted that the 2013 Constitution had not abrogated the Bail Act of 2002. The 2013 Constitution and the Bail Act of 2002 were consistent with each other in that, both stated "an accused person was entitled to bail pending trial, unless the interest of justice requires otherwise" - see section 13(1)(h) of the 2013 Constitution and section 3(1) of the Bail Act 2002. So, in a sense, the 2013 Constitution and the Bail Act 2002 could be read together, and the two laws complement each other.
5. For the above reason, I found there was no change in circumstances and my bail ruling in Miscellaneous Case No. HAM 069 of 2013S, still stands. Because of the above, I dismissed the accuseds' bail applications in Miscellaneous Case No. HAM 246 and 256 of 2013S on 28 November 2013. I rule so accordingly.

Salesi Temo
JUDGE

Solicitor for All Accused : **Vaniqi Lawyers, Suva.**
Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**