

IN THE HIGH COURT OF FIJI

AT SUVA

MISCELLANEOUS JURISDICTION

MISCELLANEOUS CASE NO. HAM 125 OF 2014S

ERONI QIO

VS

THE STATE

Counsels : Mr. I. Romanu for Accused
Ms. S. Navia for State
Hearing : 1 August, 2014
Ruling : 26 September, 2014

RULING ON BAIL PENDING TRIAL

1. In Suva High Court Criminal Case No. HAC 145 of 2014S, the accused faces the following information:

FIRST COUNT

Statement of Offence

AGGRAVATED ROBBERY: *Contrary to section 311 (1) (a) of the Crimes Decree No. 44 of 2009.*

Particulars of Offence

ERONI QIO with others on the 11th day of March 2014, at Mulomulo Place, Nakasi in the Central Division, stole cash in the sum of \$4,110.00, 1 Ripcurl bag valued at \$105.00, 1 pair of canvas shoes

*valued at \$100.00 and jewellery worth \$10,000.00, all to the total value of \$14,315.00 from **NISHA SHAH**, and immediately before stealing that property, he used force on the said **NISHA SHAH**.*

2. He first appeared in the Nasinu Magistrate Court on 7 May 2014. He had been remanded in custody since then. On 7 July 2014, through his counsel, he filed a notice of motion and affidavit in support seeking bail, pending trial. The State replied with an affidavit in reply on 21 July 2014 opposing bail. I heard the parties on 1 August 2014, and adjourned today for a ruling.
3. It is well settled that an accused person is entitled to bail pending trial, unless the interest of justice requires otherwise. The test for granting bail is whether or not the accused person will turn up in court, on the date arranged, to take his trial. In deciding the above, the court is duty bound to consider the factors outlined in section 19 of the Bail Act 2002.

Factor No. 1: The Likelihood of Surrender to Custody:

4. Mr. Qio is 34 years old, married with one child. He resides at Lot 3 Lagakali Road, Kalabu Housing, and according to him, a farmer by profession. He reached Form 3 level education. He stays with his elder brother. Mr. Qio had a long criminal history between 1993 and 2008. He had 36 previous convictions, 18 of them in the last 10 years. In the last 10 years, he had committed seven larceny type offences, 3 of them were "robbery with violence". In this case, the prosecution said, they had strong evidence against the accused. A Prison Officer, who knew him very well, allegedly identified the accused, fleeing from the crime scene, at the material time. He was discovered abandoning iron rods, pinch bars and cane knives, when fleeing. He had a previous conviction for escaping from lawful custody (2006). If found guilty after trial, he faces more than 10 years imprisonment. Under this head, the accused's chances of bail are slim.

Factor No. 2: The Interest of the Accused:

5. The accused will probably be tried in March or April 2016. The 2015 court calendar is already full with people waiting for trial, week in week out. He had been remanded in custody for the last 4 months. The court has the power to remand people in custody pending trial for 2 years. In any event, time spent in custody while in remand, will be deducted from his final sentence, if found guilty. He can enjoy new facilities at the Suva Remand Centre, which cost the taxpayers \$11 million. His counsel can visit him in custody to take instructions and prepare his defence. It does

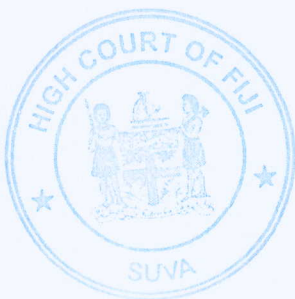
not appear there is a need for him to be at liberty for other lawful purpose. He is not incapacitated. In my view, under this head, his chances of bail are slim.

Factor No. 3: The Public Interest and the Protection of the Public:

6. The allegation against the accused is very serious. This appeared to be a "home invasion" type aggravated robbery. A family was attacked in the early hours of 11 March 2014, in their home, and properties worth more than \$14,000 was stolen. The maximum sentence for aggravated robbery is 20 years imprisonment. Although the accused is presumed innocent until proven guilty beyond reasonable doubt, in a court of law, in my view, it is in the public interest and the protection of the community that he be remanded in custody, until further orders of the court. In my view, his chances of bail under this head, are slim.

Conclusion:

7. For the above reasons, I deny the accused's application for bail. He is remanded in custody until further orders of the court.




Salesi Temo
JUDGE

Solicitor for Accused
Solicitor for State

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I. Romanu, Barrister and Solicitor, Suva.
Office of the Director of Public Prosecution, Suva.