

IN THE HIGH COURT OF FIJI  
AT SUVA  
CRIMINAL JURISDICTION

MISCELLANEOUS CASE NO: HAM 66 OF 2015

BETWEEN : USAIA KILAIVERATA APPLICANT

AND : STATE RESPONDENT

Counsel : Ms. E. Leweni for the Applicant

: Mr. L. J. Burney for the State

Date of Hearing : 19<sup>th</sup> May 2015

Date of Ruling : 26<sup>th</sup> May 2015

BAIL RULING

1. In this case the accused (applicant) is charged for Murder contrary to section 237 of the Crimes Decree No. 44 of 2009.
2. He applies for bail pending trial. It is submitted on behalf of the applicant that the applicant is 28 years of age. He is a self-employed vendor who sells burgers. He has 2 children aged 3 and 2 who are residing in New Zealand with their mother. He is supporting his children and his grandmother.
3. State opposing bail submitted that as this is a domestic violence offence the presumption in favour of granting bail is displaced. It is also submitted that as the close family relatives of the accused are residing in New Zealand there

is a very high likelihood that the accused will flee Fiji to evade the punishment.

4. The alleged victim (deceased) is the defector partner of the accused. Therefore in terms of section 3 (4) (c) of the bail act the presumption in favour of granting bail is displaced.
5. The punishment prescribed by law for this offence if convicted is life imprisonment.
6. Counsel for the applicant informed Court that his children are with their mother who was his previous partner who is now in New Zealand. Therefore as submitted by the counsel for the Respondent the chances of the accused fleeing to New Zealand is very high.
7. In terms of section 17 (2) of the bail act the primary consideration in deciding whether to grant bail is the likelihood of the accused appearing in court to answer charges laid against him.
8. As the accused is a flight risk as mentioned before, the chances of him not appearing in court and absconding from court are high.
9. Hence I refuse the application for bail.



  
Priyantha Fernando  
Judge

**At Suva**

Office of TL Lawyers for the Applicant

Office of the Director of Prosecution for the Respondent