

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

MISCELLANEOUS CASE NO: HAM 137 OF 2015

BETWEEN : PRANEEL CHANDRAN REDDY

AND : STATE

Counsel : Mr. Babu Singh for Applicant

: Mr. M. Delaney for the State

Date of Hearing : 27th August 2015

Date of Ruling : 02nd September 2015

BAIL RULING

1. The applicant was charged in the Magistrate's Court at Suva with the following offence:

Statement of Offence (a)

UNLAWFUL IMPORTATION OF ILLICIT DRUGS: Contrary to Section 4 (1) of the Illicit Drugs Control Act, 2004.

Particulars of Offence

PRANEEL CHANDRAN REDDY, between the 17th day of May, 2015 and 25th day of July, 2015 at Suva in the Central

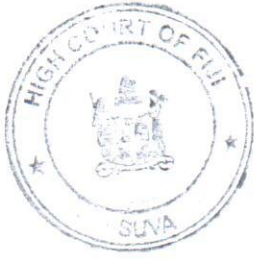
Division, imported 79.3 kilograms of illicit drugs namely methamphetamine without lawful authority.

2. The case was transferred to the High Court by the Magistrate's Court on 10/08/2015 and the indictment is yet to be filed in this court. The applicant applies for bail pending trial.
3. In his affidavit in support of the application he states that one Sosiceni Toa who is an Australian citizen has been his tenant. On his request the applicant has allowed him to use his company name to be the consignee for shipment of Toa's furniture from Australia. Later he had received an email from Mexico informing him about a shipment in transit from Mexico. He had no dealings with anyone from Mexico, he says. The date of the email he could not remember.
4. On 23rd July 2015, said Mr. Toa was brought by the police and had searched the flat. Thereafter on 24th July 2015 he had informed about the shipment from Mexico to the Nadi Police and also to Customs Boarder Control. Then he had received a call from Carpenters Shipping that a shipment had come under his company name and he had informed them that it did not belong to him.
5. On 30/07/2015 he was arrested by the police. He says that he was questioned and was also taken to hospital when he was not feeling well and was allowed to go home.
6. He was further questioned by police on 03/08/2015 and was allowed to go home. He says that he did not order or import this container to Fiji.
7. In response to the application, objecting to bail being granted, State filed the affidavit of the Investigating Officer D/Cpl 3695 Isireli Waqairalia.

8. In his affidavit he says that the applicant is charged with a serious offence which carries a sentence of life imprisonment or a fine not exceeding 1 million Fiji dollars or both. The Street value of the quantity of drugs involved will be in excess of Fiji \$50,000,000.00 (fifty million) and the evidence against the applicant is strong as he is the consignee of the goods which contained drugs.
9. In his caution interview the applicant has said that one Sosiceni Toa is involved and that Toa is also been charged with the same offence.
10. It is also said that there is a high likelihood of the applicant absconding to evade prosecution in the light of the gravity of the charge and the immediate custodial term he has to serve if convicted.
11. In terms of section 3 (1) of the Bail Act, every accused has a right to be released on bail unless it is not in the interests of justice that bail should be granted. I bear in mind that the accused is presumed to be innocent until proven guilty. However, the court must make sure that the accused appears in court to face charges.
12. 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 person appearing in court to answer charges laid against him.
13. The applicant admits that he agreed to be the consignee for a shipment, but that it was for a shipment of Toa's furniture from Australia. He has given the details of his company to use his company's name as consignee. It is a matter to be decided at the trial whether he allowed to use his company name as the consignee for a shipment of furniture from Australia in good faith or not.

14. In terms of section 19 (1) of the Bail Act, accused should not be refused bail unless the court is satisfied as to any one or more of the considerations set out in section 19 (1) of the Bail Act namely;
 - (a) The accused person is unlikely to surrender to custody and appear in court to answer the charges laid;
 - (b) The interests of the accused person will not be served through the granting of bail; or
 - (c) Granting bail to the accused person would endanger the public interest or make the protection of the community more difficult.
15. It is submitted on behalf of the applicant that he volunteered to accompany police and he was allowed to go home during the investigation.
16. As regards, the likelihood of surrender to custody, the circumstances, nature and the seriousness of the offence and the strength of the prosecution case has to be taken into account in terms of section 19 (2) (a) of the Bail Act. The severity of the likely penalty if the person is found guilty also has to be considered.
17. As mentioned by the State, the applicant is charged with a very serious offence and if convicted, he faces a possible fine not exceeding Fiji \$1000000.00 or a sentence of life imprisonment or both.
18. The company of the applicant is the consignee of the goods. As mentioned before it is a matter for the court to decide at the trial stage about the applicant's bona fides. Therefore when consider the strength of the prosecution case and the severity of the likely penalty if the applicant is found guilty, the likelihood of the applicant absconding from court is high.

19. Hence I refuse the application for bail.




Priyantha Fernando
Judge

At Suva

Office of Babu Singh & Associates for the Applicant
Office of the Director of Prosecution for State