

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**MISCELLANEOUS JURISDICTION**

**MISCELLANEOUS CASE NO. HAM 084 OF 2015S**

**BETWEEN**

**INOKE RATU**

**APPLICANT**

**AND**

**THE STATE**

**RESPONDENT**

**Counsels** : **Ms. M. Tarai for Applicant**  
**Mr. M. Vosawale for Respondent**

**Hearing** : **3 July, 2015**

**Ruling** : **28 September, 2015**

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**RULING ON BAIL PENDING TRIAL**

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1. In Suva High Court Criminal Case No. HAC 083 of 2015S, the applicant (accused) faced a charge of “unlawful cultivation of illicit drugs” contrary to section 5(a) of the Illicit Drugs Control Act 2004. It was alleged he cultivated 228 plants of cannabis sativa weighing approximately 26.4 kilograms, between 1 December 2014 and 7 January 2015, at Kadavu in the Eastern Division.
2. He appeared in the Suva Magistrate Court on 12 January 2015 and had been remanded in custody since then. He applied for bail on 27 May 2015 and again on 1 July 2015. I will treat both applications together, to avoid wasting time. The prosecution opposed the bail application by filing an affidavit in reply on 1 July 2015. I heard the parties on 3 July 2015 and said I would give my ruling today. I have read the papers filed by the parties and I have heard their verbal submissions.
3. It is well settled that an accused is entitled to bail pending trial, unless the interest of justice requires otherwise. The test for bail is whether or not the accused will turn up in court on the

date arranged to take his trial. In considering the above issue, it was mandatory for the court to take into account the factors mentioned in Section 19 of the Bail Act 2002.

**Factor No. 1: Likelihood of Accused's Surrender to Custody**

4. The applicant (accused) is 24 years old. He is a farmer at Kadavu. He reached Form 6 level education. He is married. According to the prosecution, they had a strong case against him. He allegedly confessed to the crime. If found guilty after trial, the accused faced a possible prison sentence of 14 years imprisonment and up. Under this head, the chances of the accused's bail are slim.

**Factor No. 2: The Interest of the Accused**

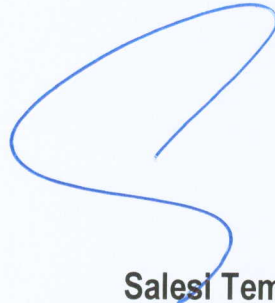
5. Trial had been set from 15 to 19 August 2016. It is approximately 11 months away. The accused had been in custody since 12 January 2015. So when the trial proper starts, he would have been in custody for approximately 1 year 7 months. The court is empowered to remand people in custody for 2 years prior to trial. In any event, if he's found guilty after trial, time spent in custody while on remand will be deducted from his final sentence as time already served. He is remanded at the new Suva remand facilities. He is represented by lawyers from the Legal Aid Commission, and they can visit him in custody to prepare his defence, as and when they pleased. There does not appear to be any reasons for him to be at liberty for other lawful reasons. He is not incapacitated and he is not under 18 years old. Under this head, the accused's chances of bail are slim.

**Factor No. 3: Public Interest and Protection of the Community**

6. The allegation against the accused is very serious. He allegedly cultivated 26.4 kilograms of cannabis sativa plants between December 2014 and January 2015. The evils of drugs had been highlighted in various publications. Although the accused is presumed innocent until proven guilty beyond reasonable doubt, 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. Under this head, the accused's chances of bail are slim.

**Conclusion**

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



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JUDGE

Solicitor for Applicant : Legal Aid Commission, Suva.  
Solicitor for Respondent : Office of the Director of Public Prosecution, Suva.