

IN THE HIGH COURT OF FIJI

AT SUVA

MISCELLANEOUS JURISDICTION

MISCELLANEOUS CASE NO. HAM 164 OF 2014S

BETWEEN

SITIVENI QIO VASUTURAGA

APPLICANT

AND

THE STATE

RESPONDENT

**Counsels : Ms. S. Vaniqi for Applicant
Mr. T. Qalinauci for Respondent**

Hearing : 16 February, 2015

Ruling : 27 February, 2015

Written Reasons: 10 November, 2015

WRITTEN REASONS FOR DENIAL OF BAIL

1. The accused was charged with two counts of murder, contrary to Section 237 of the Crimes Decree 2009, and one count of attempted murder, contrary to Sections 44(1) and 237 of the same Decree, in Suva High Court Criminal Case No. HAC 241 of 2014. He first appeared in the Suva Magistrate Court on 21 August 2014 and had been remanded in custody since then. He had been in custody for approximately 1 year 3 months.
2. On 12 September 2014, the applicant (accused) applied for bail by filing a notice of motion and an affidavit in support. The State responded with two affidavits in reply on 14 November 2014 and 13 February 2015. On 16 February 2015, I heard the parties, and declined the accused's bail application on 27 February 2015. I said, I would give my written reasons later. Below are my written reasons.
3. An accused person 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 day

arranged for his trial. In deciding the above matters, the court is duty bound to consider the factors mentioned in Section 19 of the Bail Act 2002.

First Factor: Likelihood of Accused's Surrender to Custody

4. At the time of the alleged offences, the accused was aged 40 years old. He went as far as tertiary education at the then Fiji Institute of Technology. He resided at a village in Kadavu. He was married, with one adopted daughter. According to the prosecution, they had a strong case against the accused. He allegedly confessed to stabbing his wife and mother-in-law to death. They also had an eye witness to the alleged offences. If found guilty after trial, the accused could be liable for two life imprisonment sentences. Under this head, the accused's chances of bail are slim.

Factor No. 2: The Interest of the Accused

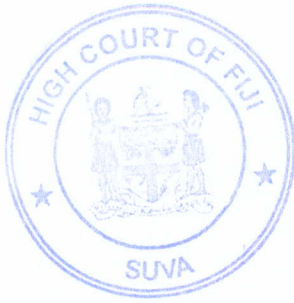
5. The accused will be tried from 27 June to 1 July 2016. That is approximately 7 months away. By trial time, he would have been in custody for approximately 1 year 11 months. However, if he's found guilty, time spent in custody while on remand will be deducted from his final sentence. He is remanded in the new Suva remand centre. He is represented by counsel, and she could visit him in custody to prepare his defence. There does not appear to be any reason for him to be at liberty, for other lawful reasons. He is 40 years old and not incapacitated. Under this head, the accused's chances of bail are slim.

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

6. The allegations against the accused were very serious. After a verbal argument with his mother-in-law and wife, he allegedly stabbed them to death with a kitchen knife. Then he attempted to stab another person. This was allegedly a serious case of domestic violence. 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. Under this head, the accused's chances of bail are slim.

Conclusion

7. It was for the above reasons that I refused bail on 27 February 2015. Accused is remanded in custody until further orders of the court.



Salesi Temo
JUDGE

Solicitor for Applicant : Vaniqi Lawyers, Suva.
Solicitor for Respondent : Office of the Director of Public Prosecution, Suva.