

IN THE HIGH COURT OF FIJI
AT LAUTOKA
MISCELLANEOUS JURISDICTION

HAM NO. 113 OF 2016

BETWEEN : SAILOSI SERU

Applicant

AND : STATE

Respondent

Counsel : The Applicant in person
Ms. S. Naibe for Respondent

Date of Ruling : 20th of July 2016

Bail Ruling

1. This is an application to review the bail ruling delivered by the learned Magistrate of Lautoka on 28th of May 2016. The learned Magistrate has refused the bail of the Applicant on the ground of public interest and protection of the community.
2. The notice of motion is being supported by an affidavit of the Applicant, stating the grounds of this application. The Respondent filed an affidavit of D.C Vedh, in opposition to this application. Subsequently, both the parties were directed to file their respective written submissions, which they filed as per the direction.


Having carefully considered the respective affidavits and submissions of the parties, I now proceed to pronounce the ruling as follows.

3. The Applicant in his affidavit states that he never made an application for bail in the Magistrate's court. However, the learned Magistrate made the above mentioned bail ruling on the 28th of May 2016. This review application is founded on the following grounds that;
 - i) Most of his pending criminal actions in the Magistrates court have now been disposed off,
 - ii) His family commitment,
 - iii) Presumption of innocent,
4. D.C. Vedh in his affidavit stated that the Applicant still has four pending criminal actions in the Magistrates' court. Apart from that he has an adverse record of previous convictions. Moreover D.C Vedh deposed that the Applicant has already breached his bail conditions in the Magistrates court in respect of criminal cases CF 723 of 2014 and 726 of 2014.
5. Section 30 (3) of the Bail Act has conferred the High Court with jurisdiction to review any decision made by a magistrate in relation to bail. However, Section 30 (7) of the Bail Act requires the Applicant to satisfy the Court that there are special facts or circumstances that justify a review. Section 30 (7) of the Bail Act states that;

"The Court which has power to review a bail determination or to hear a fresh application under Section 14 (1), may, if not satisfied that there are special facts or circumstances that justify a review, or the making of afresh application, refuse to hear the review or application".

6. Having perused this bail ruling delivered in the Magistrates' court, I find the learned Magistrate has already considered the previous convictions and the pending criminal actions of the Applicant.

7. In view of the adverse record of previous convictions, the pending criminal actions in the magistrates' court and the previous instances of breaching of bail conditions, I find there is a highly likelihood that the accused might reoffend and abscond in appearing in court if he is granted bail. Accordingly, I refuse this application on the ground that there is no special facts or circumstances to justify the making of this review application pursuant to Section 30 (7) of the Bail Act.

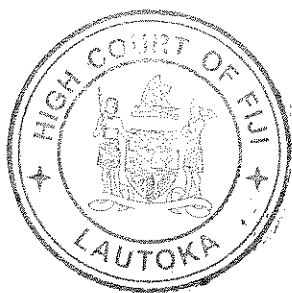


R. D. R. Thushara Rajasinghe

Judge

At Lautoka

20th of July 2016



Solicitors : Office of the Director of Public Prosecutions