

IN THE HIGH COURT OF FIJI AT SUVA

In the matter of an application for bail
pending trial.

ISACC MATHEW JAMES

Applicant

CASE NO: HAM. 91 of 2017
(HAC 108/2017)

Vs.

STATE

Respondent

Counsel : Mr. J. Dinati for the Applicant
Ms. S. Tivao for the Respondent

Date of Hearing : 24th May 2017

Date of Ruling : 08th June 2017

BAIL RULING

1. This is an application for bail pending trial. The applicant is charged with one count of aggravated robbery contrary to section 311(1)(a) of the Crimes Act which is an offence punishable with an imprisonment term of 20 years. It is alleged that the applicant committed the offence with others.
2. When this case was first mentioned before this court on 19/05/17, counsel for the respondent informed court that the respondent is not objecting for bail.
3. The offence of aggravated robbery is a prevalent offence in the country. An impression that this offence is not taken seriously by the relevant authorities would

take away the peace of mind of the law abiding members of the society and more importantly scare tourists and investors away from the country. In this case, I noted that this applicant has another pending case before the High Court of Lautoka when I perused the affidavit filed in support of the bail application.

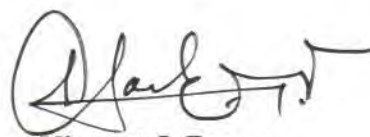
4. Given the above, I considered it necessary to closely examine the circumstances of this case to consider whether there is a flight risk involved and whether granting bail to the applicant would endanger the public interest or make the protection of the community more difficult. Accordingly, counsel for the respondent was informed to file a proper written response.
5. The respondent then filed a written submission in support of the applicant's bail application. As the first reason for not objecting for bail, the respondent had submitted that the applicant had been granted bail in relation to the case against him before the High Court at Lautoka mainly due to the condition of the Natabua Correction Centre and he will be kept in the same institution if he remains in remand.
6. Given the nature of the offence the applicant is charged with, I am not convinced that the aforementioned reason warrants the applicant to be released to the community on bail if other circumstances of the case lead inexorably to form the opinion that the applicant should not be granted bail pursuant to the applicable provisions of the Bail Act.
7. I have no doubt that whatever condition relied upon by the applicant in the said case would have been a temporary situation if there was any merit in the relevant allegation.
8. Moreover, in my view, an allegation which suggests that a constitutional right is violated can only be properly and effectively adjudicated under the jurisdiction provided in section 44 of the 2013 Constitution where it is necessary for the court to be satisfied that the Attorney-General is given sufficient notice regarding the matter.

9. It is obvious that the respondent had made submissions against the presumption in favour of bail concerning the applicant in relation to the case against him before the High Court at Lautoka. However, the respondent had decided that there is no basis to make submissions against the said presumption in relation to this bail application filed by the same applicant.
10. In the circumstances, the applicant is granted bail subject to the following conditions;

The applicant should;

- a) sign a personal surety bond of \$1000;
- b) appear in case No. HAC 108 of 2017 on every court date;
- c) not commit any offence whilst on bail;
- d) provide clear details of the residential address and reside at that address until the conclusion of the case, HAC 108 of 2017;
- e) not change the aforementioned address provided to court without the leave of the court;
- f) not interfere with prosecution witnesses either directly or indirectly;
- g) surrender all travel documents to court if any;
- h) should not apply for any travel document and should not leave Viti Levu until the conclusion of the case HAC 108 of 2017;
- i) report to Wanibukasi Police Station on every Friday between 6.00am and 6.00pm, commencing from 09/06 /2017;
- j) remain at home curfewed daily between the hours of 7.30pm to 5.30am; and
- k) provide two sureties and each surety to sign a bond of \$1000 to ensure that the applicant complies with his bail undertaking.




Vinsent S. Perera
JUDGE

Solicitor for the Applicant : Tuifagalele Legal, Suva
Solicitor for the State : Office of the Director of Public Prosecutions, Suva.