

IN THE HIGH COURT OF FIJI

AT SUVA

MISCELLANEOUS JURISDICTION

MISCELLANEOUS CASE NO. HAM 022 OF 2018S

BETWEEN TOMASI TUICAKAU

APPLICANT

AND THE STATE

RESPONDENT

Counsels : Applicant in Person
 : Ms. L. Bogitini for Respondent

Hearing : 16th November, 2018

Ruling : 16th November, 2018

Written Reasons: 28th December, 2018

WRITTEN REASONS FOR DENIAL OF BAIL

1. The applicant (accused) was charged with "aggravated robbery", contrary to section 311 (1) (a) of the Crimes Act 2009. The applicant's substantive file is Suva High Court Criminal Case No. HAC 353 of 2018. It was alleged that he with others, on 11 September 2018, at Davuilevu in the Central Division, forcefully stole the complainant's mobile phone, worth \$844. He had been remanded in custody since his first appearance in the Nasinu Magistrate's Court on 14 September 2018.

2. So, he had been in custody for the previous 3 months 14 days. On 2 November 2018, he applied for bail in the standard High Court bail application form for unrepresented accused. I heard the parties on 16 November 2018, and I denied bail. Below are my written reasons.
3. Every accused person is entitled to bail pending trial, unless the interest of justice requires otherwise. The test for bail is whether or not he will turn up in court on the date arranged for trial. In considering the above issue, the court is duty bound to consider the factors in section 19 of the Bail Act 2002.

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

4. I had perused the disclosure documents. The applicant is 19 years old. He reached Form 6 level education. On 16 November 2018, he pleaded guilty to the charge in the High Court and is awaiting sentence. The tariff for aggravated robbery is 8 to 16 years imprisonment. Prosecution said, he was already facing a theft charge in the Magistrate Court, and allegedly committed this offence, while on bail. Under this heading, the accused's chances of bail are slim.

Factor No. 2: Interest of the Accused

5. As mentioned above, the applicant pleaded guilty to the charge on 16 November 2018. Depending on the Facts and Sentencing hearing, the applicant's case may be disposed off in February 2019. Time spent in custody will be considered when it comes to sentencing. He is represented by experienced legal aid counsel. He is not incapacitated. There does not appear to be any valid reason for him to be at liberty for any other lawful reasons. Under this heading, the accused's chances of bail are slim.


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

6. "Aggravated robberies" is a menace to society. The allegation against the accused is serious. Although he 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 society that he be remanded in custody until further orders of the court. Under this heading, the accused's chances of bail are slim.

Conclusion

7. It was for the above reasons that I denied the applicant's bail on 16 November 2018.




Salesi Temocini
JUDGE

Solicitor for Applicant : **In Person**

Solicitor for Respondent : **Office of the Director of Public Prosecution, Suva**