

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

MISCELLANEOUS CASE NO. HAM 147 OF 2018

BETWEEN: **1. LOIZOS PETRIDES** **APPLICANTS**
 2. CLEANTHIS PETRIDES

A N D: **THE STATE** **RESPONDENT**

Counsel: Mr. M. Anthony for the Applicants
 Ms. S. Tivao for the State

Date of Hearing: 27th July 2018

Date of Ruling: 28th August 2018

BAIL RULING

1. The two Applicants filed this notice of motion seeking an order that the Applicants be granted bail. The motion is being supported by an affidavit of Mr. Cleanthis Petrides stating the grounds of this application.
2. Upon being served with the notice of motion, the Respondent filed an affidavit of Detective Corporal Sanjeev, stating their objections for this application. The Applicants then filed an affidavit of Lenaitasi Kuruvoli, who expresses his willingness to be a surety to the Applicants if the bail is granted. Subsequently, the matter was set down for hearing on 27th of July 2018, where the learned counsel for the Applicants and the Respondent made their respective oral submissions. Having carefully considered the respective

affidavits and the oral submissions of the parties, I now proceed to pronounce my ruling as follows.

3. The Applicants are being charged with one count of Money Laundering, contrary to Section 69 (2) (a) and (3) (a) of the Proceeds of Crimes Act, one count of Attempting to Obtain Property by Deception, contrary to Section 44 and 317 of the Crimes Act and one count of Possession of Property Suspected of being Proceeds of Crimes, contrary to Section 70 (1) of the Proceeds of Crimes Act.
4. This is the second bail application of the Applicants, where the previous bail application that was made in the Magistrate's Court was granted. However, the High Court in its judgment dated 12th of April 2018 reversed the said decision of the learned Magistrate and remanded the Applicants in custody pending the trial.
5. Section 30 (7) of the Bail Act states that:

"A 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 a fresh application, refuse to hear the review or application".

6. Accordingly, a hearing of a fresh bail application constitutes two components. The applicant is first required to satisfy the court that there are special facts or circumstances to justify the making of a fresh application. If the court is satisfied with the first component, it would then proceed to hear the a fresh bail application.
7. In this application for bail, the Applicants have proposed Mr. Lenaitasi Kuruvoli, as their proposed surety. Mr. Kuruvoli in his affidavit deposed that he came to know about these two Applicants at their prayer meetings at the church. The two Applicants, while on bail, had attended prayer meetings at the same church.

8. The Applicants are Cyprus nationals and arrested for these alleged offences while they were visiting Fiji. It is important that the proposed surety must satisfy the court that he has a close and strong relationship. Moreover the surety must have an authority and control over the person to whom he agreed to be a surety.
9. Justice Shameem in Kumar v The State (2005) FJHC59; HAM0008D.2005S (23 March 2005) has discussed the duty of the surety in a similar circumstances as of this instant case. Her Ladyship having found the Applicant was a foreigner and the relationship of the applicant and the proposed surety is slight, Justice Shameem held that:

“The overriding principle in bail applications is whether the applicant will surrender to bail. Most applicants for bail, who have no history of absconding or of re-offending on bail, can offer safeguards against a failure to surrender. Sureties are usually offered, who are in a position to ensure the applicant’s presence in court, not only because of the fear of losing the money guaranteed if there is non- appearance, but also because of some ability to insist on the applicant’s obedience to bail conditions”

10. Section 2 of the Bail Act has defined the role of surety as:

“Surety” means a person, other than the accused person or a person under 18 years, whom a police officer or court determines to be acceptable to provide confirmation of the accused person’s bail undertaking, or security that such undertaking will be complied with.

11. In this case, the Applicants are foreigners and arrested for these alleged offences while they were visiting Fiji and were remanded in custody. In view of the information provided before me by the parties, I find that proposed surety only becomes acquaintance to the two applicants through their prayer meetings at the church. The Applicants had attended for these prayer meetings only for few weeks while they were on bail. Apart from that the proposed surety has no knowledge about the two Applicants. Under such circumstances, I

do not find the proposed surety would fall within the definition of surety as stipulated under Section 2 of the Bail Act.

12. In my conclusion, I refuse and dismiss this application for bail of the Applicants on the grounds of unlikelihood to surrender to custody if granted bail and on interest of justice.
13. The applicants may invoke the jurisdiction of the Fiji Court of Appeal to review this ruling pursuant to section 30 (4) of the Bail Act.




R.D.R.T. Rajasinghe
Judge

At Suva
28th August 2018

Solicitors
AC Law for the Applicants.
Office of the Director of Public Prosecutions for the State.