

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**[CRIMINAL JURISDICTION]**

**CRIMINAL MISC. CASE NO. HAM 401 OF 2019**  
**(High Court Case No. 359 of 2019)**

**BETWEEN** : **TEVITA KUNAWAVE**

**AND** : **THE STATE**

**Counsel** : **Ms L Ratidara for the Accused**  
**Ms E Rice for the State**

**Date of Hearing** : **24 February 2020**

**Date of Ruling** : **4 May 2020**

**RULING**

- [1] The Accused is charged with the murder of his 4-month old daughter. He has pleaded not guilty to the charge and seeks bail pending trial. The prosecution opposes the application for bail.
- [2] A person is entitled to bail, unless it is not in the interests of justice that bail should be granted (s 3 of the Bail Act). In the case of the Accused the presumption in favour of the granting of bail is displaced because he is charged with domestic violence offence.
- [3] The prosecution case is potentially strong based on eye witnesses' account of the alleged incident. The main witness for the prosecution is the spouse of the Accused. Other witnesses are relatives and friends of the Accused.

- [4] The Accused is a military officer. His family and community ties are strong. He has proposed his father who is a security officer and his elder brother who is also a military officer to stand as sureties on his behalf.
- [5] The primary consideration is the likelihood of the Accused appearing in court to answer the charge against him. The court may also take into account the time he may have to spend in custody before trial if bail is not granted. The Court has indicated to the parties that the case will be assigned a priority trial date if bail is not granted. The Accused may have to spend about 12 months in custody on remand before trial.
- [6] Murder is punishable by mandatory life imprisonment. Although the Accused is likely to turn up for his trial due to his strong community ties, stringent bail conditions are unlikely to reduce the risk of interference with the prosecution witnesses who are closely related to the Accused. There is a high likelihood of interference with the witnesses, if the Accused is released on bail.
- [7] For these reasons, it is not in the interests of justice to grant bail. Bail is refused.



A handwritten signature in blue ink, consisting of a stylized 'D' and 'G' followed by a horizontal line.

.....  
**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Legal Aid Commission for the Accused

Office of the Director of Public Prosecutions for the State