

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**  
**CRIMINAL CASE NO. HAC 199 OF 2021S**

**STATE**

**VS**

**JOJI KAITANI**

**Counsels : Mr. Z. Zunaid for the State**  
**Accused in Person**  
**Hearings : 31 October and 2 November, 2022.**  
**Sentence : 4 November, 2022.**

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**SENTENCE**

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1. The accused had previously waived his right to counsel and chose to represent himself. On 31 October 2022, the first day of the trial, the accused intimated to the court that he wished to plead guilty. The following information was then read and explained to him:

*“[Count 1]*

*Statement of Offence*

**UNLAWFUL POSSESSION OF ILLICIT DRUGS: Contrary to Section 5 (a) of  
the *Illicit Drugs Control Act 2004*.**

*Particulars of Offence*

*PAULA ROKOTUIVEIKAU NABUTA & JOJI KAITANI on the 28<sup>th</sup> day of September, 2021 at Suva in the Central Division, without lawful authority, was found in possession of an illicit drug namely cannabis sativa, weighing 912 grams.*

*[Count 2]*

*Statement of Offence*

**UNLAWFUL POSSESSION OF ILLICIT DRUGS: *Contrary to Section 5 (a) of the Illicit Drugs Control Act 2004.***

*Particulars of Offence*

*PAULA ROKOTUIVEIKAU NABUTA & JOJI KAITANI on the 28<sup>th</sup> day of September, 2021 at Suva in the Central Division, without lawful authority, was found in possession of an illicit drug namely cannabis sativa, weighing 6.34 kilograms.”*

2. The accused said he understood the two counts in the information. He pleaded guilty to the two counts. The court checked with him on whether or not he was pleading guilty to the two counts voluntarily and whether or not anyone forced him to do so? He said, he was pleading guilty voluntarily and that no one forced him to do so. The matter was then adjourned to 2 November 2022 to enable the prosecution to prepare the summary of facts. As for Mr. Paula Nabuta, the matter was adjourned also to 2 November 2022 for the prosecution to check on their case.
3. On 2 November 2022, a nolle prosequi was filed against Mr. Paula Nabuta by the prosecution, and the proceeding against him was terminated immediately. As for Mr. Joji Kaitani, the prosecution presented their summary of facts to the court.
4. The prosecution's summary of facts were as follows: According to the prosecution, the accused was seen driving around in a silver grey Toyota Fielder

vehicle, registration number LR 3090 on 28 September 2021, after 3.25 pm. The police had received information that the vehicle was transporting drugs. At Khalsa Road, the police stopped the vehicle and searched the same. The accused was seated in the back seat of the car as a passenger. Upon searching the vehicle the police found 54 wrappings of marijuana in aluminium foil. The marijuana were later analyzed by government analyst and the same were confirmed to be cannabis sativa weighing 912 grams (count no. 1). The accused when cautioned interviewed by the police later, admitted the cannabis sativa was his.

5. On the same day, 28 September 2021, at about 4.25 pm, the police received information that drugs were in a house in Newtown, Nasinu. The house belonged to the person driving LR 3090 at the time. The police later accompanied the accused and his friends travelling in LR 3090 to the house in Newtown. Upon search of the house, the police found 6.34 kilograms of marijuana in a white sack (count no. 2). The same were later analyzed by government analyst who confirmed the same to be cannabis sativa. When cautioned interviewed by the police later, the accused admitted the cannabis sativa were his. He was later charged with count no. 1 and 2 in the information.
6. The court later checked with the accused on whether or not he admitted the above summary of facts. He said, he admitted the above summary of facts, including the particulars of the offences in count no. 1 and 2 of the information. As a result of the above, the court found the accused guilty as charged on count no. 1 and 2, and convinced him accordingly on those counts.
7. The prosecution said the accused was a first offender. The accused later presented his plea in mitigation. He said, he was 22 years old. He was single and had reached Form 7 level education. He was first year student at the

Maritime School. He said, his parents separated when he was young and was brought up by his grandparents and uncle. He pleaded guilty on the trial date. He had been in custody for 3 days.

8. The maximum sentence for “Unlawful possession of cannabis sativa, an illicit drug”, is a fine of \$1,000,000 or life imprisonment or both (section 5 (a) of the Illicit Drugs Control Act 2004). Society, through Parliament, viewed the offence seriously. In **Kini Sulua, Michael Ashley Chandra v State** [2012] Fiji Law Reports, Volume 2, page 111, at paragraph 115 on page 143, the majority in the Court of Appeal laid down the following sentence guideline:

- (i) **Category 1:** possession of 0 to 100 grams of cannabis sativa – a non-custodial sentence to be given, for example, fines, community service, counselling, discharge with a strong warning, etc. Only in the worst cases, should a suspended prison sentence or a short sharp prison sentence be considered.
- (ii) **Category 2:** possession of 100 to 1,000 gram of cannabis sativa. Tariff should be a sentence between 1 to 3 years imprisonment, with those possessing below 500 grams, being sentenced to less than 2 years, and those possessing more than 500 grams, be sentenced to more than 2 years imprisonment.
- (iii) **Category 3:** possessing 1,000 to 4,000 grams of cannabis sativa. Tariff should be a sentence between 3 to 7 years, with those possessing less than 2,500 grams, be sentenced to less than 4 years imprisonment, and those possessing more than 2,500 grams, be sentenced to more than 4 years.

- (iv) **Category 4:** possessing 4,000 grams and above of cannabis sativa.  
Tariff should be a sentence between 7 to 14 years imprisonment.

9. The weight of the drugs in this case being 6.34 kilograms, it makes the case a Category 4 case. The tariff is therefore a sentence between 7 to 14 years imprisonment. However, the final sentence will depend on the aggravating and mitigating factors.
10. In this case, there appears to be only one aggravating factor, that is, the drugs you possessed were huge.
11. The mitigation factors were as follows:
- (i) At the age of 22 years, this is your first offence;
  - (ii) You were remanded in custody for 3 days;
  - (iii) Although you pleaded guilty on the first day of the trial, you nevertheless saved court's time;
  - (iv) You fully co-operated with police during the investigation and you admitted the offence when cautioned.
12. I start with a sentence of 7 years imprisonment. I will add nothing for the aggravating factors. For co-operating with police, I deduct 1 year, leaving a balance of 6 years. I deduct one month for the 3 days spent in custody, leaving a balance of 5 years 11 months. For pleading guilty on the date of trial, I deduct 11 months leaving a balance of 5 years imprisonment. For being a first offender and a young offender, I deduct 2 years, leaving a balance of 3 years imprisonment.
13. Mr. Joji Kaitani, for unlawfully possessing illicit drugs on 28 September 2021, at Suva in the Central Division, I sentence you to 3 years imprisonment each for count no. 1 and 2 of the information, both sentences to be made concurrent to each other, making a final total sentence of 3 years imprisonment.

14. The drugs to be destroyed by the police as soon as practicable.

15. You have 30 days to appeal to the Court of Appeal.



A handwritten signature in blue ink, appearing to be "Salesi Temo".

Salesi Temo  
JUDGE

**Solicitor for State**  
**Solicitor for Accused**

**:** **Office of the Director of Public Prosecution, Suva**  
**:** **In Person.**