

IN THE HIGH COURT OF FIJI AT SUVA
CRIMINAL JURISDICTION

Miscellaneous Case No. HAM 288 of 2024

IN THE MATTER of an application for bail pending Trial in the case of **State vs Pritesh Chand** at the Suva High Court criminal case HAC 254 of 2024

Pritesh Chand -v- State

For the Applicant: Mr. J. Reddy
For the State: Mr. V. Koroinivalu

Date of Bail Hearing: 29th November 2024
Date of Bail Ruling: 10th December 2024

BAIL RULING

1. This is the ruling on the bail application filed by the Applicant.
2. The Applicant filed a Notice of Motion on the 31st of October 2024 seeking the following: -
 - (a) An order that the Applicant Pritesh Chand be admitted to bail pending hearing upon such terms and conditions as this Honourable Court deems fit pending plea and trial.
3. The application is supported by the affidavit of Pritesh Chand deposed on the 31st of October 2024 and he has set out the grounds for the application.

The Grounds for the Application

4. The Applicant is charged with 1 count of Rape contrary to section 207 of the Crimes Act and he was produced in the Nasinu Magistrate's Court on the 7th of October 2024 and his matter was transferred to the High Court.

5. He appeared in the High Court on the 18th of October 2024, and he is now remanded in custody pending trial and he now makes a formal application for bail.
6. He is now 42 years of age, and he was employed as a welder prior to his remand.
7. His arrest is now having an emotional impact on him and his family especially on his parents.
8. He has no previous convictions or previous violations of bail conditions or any other matters pending before any of the Honourable Court.
9. He has been duly advised and verily believes that he is presumed innocent until the Court finds him guilty.
10. If granted bail, he promises to abide by all the terms and conditions set out by the Honourable Court.
11. He also seeks bail due to the projected length to start the trial.
12. He proposes to stay with his father at Navitoko Road, Sawani and he undertakes not to contact the complainant or other State witnesses in any way.
13. He also undertakes not to miss any of the Court dates that will be assigned to him by this Honourable Court.
14. He is not a flight risk as he has no intention to leave Fiji, and he does not have any passport.
15. He offers the following sureties: -
 - (a) Mr. Jai Prasad, pallet maker of Navitoko Settlement. He earns a weekly income of \$300. He is the Applicant's father.
 - (b) Mr. Dineshwar Prasad, carpenter of Cunningham Squatter Settlement, earning \$250 a week. He is the Applicant's brother-in-law.

16. Both of his proposed sureties are not adversely recorded, nor do they have any pending matters in Court.
17. He is willing to deposit the sum of \$1, 000 as a form of bond to ensure his attendance in all court cases and he proposes to report to Nausori Police Station as and when required by this Court.
18. He understands that if he breaches any conditions of bail, then his bail will be revoked, and he will be sent back to the Remand Centre.
19. The application for bail is opposed and the State has filed the affidavit of WDC 5029 Lusiana opposing the application.

The opposition to Bail

20. WDC 5029 Lusiana, based at the Valelevu Police Station submits the following grounds for the refusal of bail: -

- (i) She is the Investigative Officer for this case.
- (ii) She is familiar with the facts of this case and she deposes this affidavit from her knowledge of the case and the evidence gathered in this matter.
- (iii) On the 11th of July 2024, a report was lodged at Valelevu Police Station regarding an allegation of sexual assault and rape of one Prena Pritika Naidu, a child of 10 years.
- (iv) The report was that the complainant Prena Pritika Naidu was raped by her maternal step grandfather, the Applicant Pritesh Chand.
- (v) The Applicant was arrested, interviewed under caution and charged formally with Sexual Assault and Rape.
- (vi) He was first produced at the Nasinu Magistrate' Court on the 7th day of October 2024.
- (vii) The above offences are domestic violence offences therefore the presumption in favour of bail has been displaced.

- (viii) The Applicant has no other pending matters before the Court.
- (ix) The State will rely on the direct evidence of the complainant and the evidence of recent complaint to prove its case beyond a reasonable doubt.
- (x) The proposed sureties are family members of the Applicant, while the Applicant shares a close family relationship with the complainant and there is a risk of the Applicant interfering with the State's witnesses.
- (xi) The Trial date is yet to be fixed and the Applicant has engaged counsel to represent himself at the Trial. Counsel can visit and get instructions from the Remand Centre.
- (xii) The State submits that in this case there is greater potential for interference as the Applicant or people on his behalf may approach the complainant and the witnesses for the State.
- (xiii) The witnesses in this case are all known to the Applicant and vice versa and it is imperative for the public and the potential witnesses to be protected.
- (xiv) For those reasons., the State submits that the bail application should be refused.

21. The Applicant then responded and filed an affidavit in reply deposed on the 28th of November 2024.

22. He maintained that he was not a threat to the complainant or other State witnesses, and he needs to be on bail to properly prepare to answer the charges at the Trial of this matter.

23. The matter was then adjourned for bail hearing on the 26th of November 2024. The parties made oral submissions.

24. In his submissions, the Applicant now offers to move away and to now reside in Clopcort Street, Ba and to report to Ba Police Station.

Analysis

25. The application is made pursuant to section 12 (a) of the Bail Act 2002.

26. The applicant is a first offender therefore he would normally be entitled to bail as of right. He however is charged with a domestic violence offence therefore the presumption in his favour is rebutted.
27. The State is objecting to bail on the basis that he is closely related to the complainant and his proposed sureties are also close family members therefore the risk of interfering with the complainant and other state witnesses is high. No evidence is offered for this except for the investigating officer's apprehension.
28. The Applicant now proposes to relocate totally and live in Ba where he proposes to report to the Ba Police Station.
29. In this case, the Trial date is a long way off as the plea is yet to be taken and other directions made in this matter.
30. The Applicant will be granted bail, and the understandable concerns of the State will be addressed by proper bail conditions as follows: -
- (a) You will pay a cash bond of \$1, 000 and you will provide 3 suitable sureties for a like sum – the two proposed sureties in the application and another surety from Ba as you will be staying there for the remainder of these proceedings.
 - (b) You will reside at your nominated address in Clopcort Road, Ba. You will remain there and not leave that address except to attend your court dates.
 - (c) You will report once a week at Ba Police Station.
 - (d) You are not allowed to apply for a passport till these proceedings are completed and I issue a Stop Departure Order against you. The Immigration authorities will be notified accordingly.
 - (e) As an interim Domestic Violence Restraining Order is in place, I also issue an additional order for non-contact of the complainant by the Applicant or anyone on his behalf.

Pritesh Singh this is the ruling on Bail: -

- 1. The Application for Bail pending Trial is granted on the following grounds: -**

- (i) You will pay a cash bond of \$1, 000 and you will provide 3 suitable sureties for a like sum – the two proposed sureties in the application and another surety from Ba as you will be staying there for the remainder of these proceedings.
- (ii) You will reside at your nominated address in Clopcort Road, Ba. You will remain there and not leave that address except to attend your court dates.
- (iii) You will report once a week at Ba Police Station.
- (iv) You are not allowed to apply for a passport till these proceedings are completed and I issue a Stop Departure Order against you. The Immigration authorities will be notified accordingly.
- (v) As an interim Domestic Violence Restraining Order is in place, I also issue an additional order for non-contact of the complainant by the Applicant or anyone on his behalf.

2. The parties will attend to preparing this matter for Trial

There is a right of appeal or review



A handwritten signature in black ink, consisting of a large, stylized loop and a vertical stroke, positioned above a horizontal dashed line.

Mr. Justice U. Ratuveli
Puisne Judge

cc: -The Office of the Director of Public Prosecutions
-Jiten Reddy Lawyers