

IN THE HIGH COURT OF FIJI
AT LAUTOKA
MISCELLANEOUS JURISDICTION

CRIMINAL MISCELLANEOUS CASE NO: HAM 41 OF 2025

In the matter of an application for Bail Review pursuant to Section 30(3) of the Bail Act 2002 in Lautoka Magistrate Court Case no. 156 of 2025.

BETWEEN:

RAJNESH LAL

APPLICANT

STATE

RESPONDENT

Date of Hearing : 05 March 2025

Date of Ruling : 05 March 2025

RULING ON BAIL REVIEW

1. The Applicant filed this application on 27 February 2025 seeking to have the Bail Ruling given by the Learned Magistrate at Lautoka refusing bail to him reviewed and reversed.
2. The application is supported by the affidavit of Applicant's mother- Anila Wati.
3. According to the affidavit, the Applicant had been arrested on 19 February 2025 for an alleged breach of a Domestic Violence Restraining Order (DVRO) and on 21 February 2025 produced before the Magistrate. The Application for bail had been refused despite the State had no objection to bail and remanded for 14 days till 7 March 2025. The Notice of Motion

filed in the Magistrates Court on 25 February 2025 seeking bail has been deferred to 7 March 2025.

4. The relevant provisions of the Bail Act that deal with a bail review are as follows:

Section 30 (3) - The High Court may review any decision made by a magistrate or by a police officer in relation to bail.

Section 30 (7) - 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.

Section 30 (6) - A court may not review a decision under this Part if the court is prohibited from making a decision in relation to the grant of bail by any other written law.

Section 30 (7) - 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.

Section 30 (9) - The power to review a decision under this Part includes the power to confirm, reverse or vary the decision.

Section 30 (10) - The review must be by way of a rehearing, and evidence or information given or obtained on the making of the decision may be given or obtained on review.

5. The Applicant complains that the Learned Magistrate failed to give reasons for her decision to refuse bail. The Respondent does not dispute that the police prosecutor did not object to bail at the Magistrates Court and that no reason was given for the bail refusal.

6. Section 20 of the Bail Act states as follows:

(i) If bail is refused the police officer or the court, as the case may be, must record in writing the reasons for refusing bail.

(2) The written reasons must be conveyed to the accused person, in a language the person understands, as soon as practicable after the decision has been made, in any event no longer than 24 hours after it was made.

(3) If bail is refused the accused person must immediately be informed of the procedure for review of bail as provided in section 30.

7. It is mandatory for any court to give reasons and follow the procedure laid down in Section 20 of the Bail Act in the event the bail is refused to an accused. That procedure has not been followed by the Learned Magistrate. Therefore, the magisterial order is liable to be reversed on review.
8. The Applicant is employed as a fleet manager at a private company. The letter (AW 2) issued by his employer indicates that the Applicant is at risk of losing his employment if he did not report to work within 7 days from 20 February 2025.
9. There are special facts and circumstances that justify a review. The State has no objection for bail. The Application is allowed. Having considered the affidavit filed by the Applicant, the Court decides to grant bail to the Applicant on following bail conditions.
 - i. Surety bail bond of FJD 500 with one surety.
 - ii. Not to re-offend whilst on bail.
 - iii. Not to interfere with the witnesses for prosecution.



5 March 2025

At Lautoka

Counsel:

- Fazilat Shah Legal for Applicant

- Office of the Director of Public Prosecutions for Respondent

Aruna Aluthge

Judge