

IN THE HIGH COURT OF FIJI
IN THE WESTERN DIVISION
AT LAUTOKA

**Judicial Review No. HBJ 08 of 2023 &
HBM 43 of 2023**

**IN THE MATTER of the MINISTER FOR
HOME AFFAIRS & IMMIGRATION**

AND

**IN THE MATTER of the IMMIGRATION
ACT and the IMMIGRATION REGULATIONS
and the CITIZENSHIP OF FIJI ACT and the
CITIZENSHIP OF FIJI REGULATIONS**

AND

**IN THE MATTER of an application by SUNG
JIN LEE, NAM SUK CHOI, BYEONGJOON
LEE, BEOMSEOP SHIN, JUNG YONG KIM
and JINSOOK YOON for Judicial Review and
with other relief including an Order of Certiorari to
quash the decision made by the Minister for Home
Affairs and Immigration made between 01
September 2023 and/or 07 September 2023
DECLARING SUNG JIN LEE, NAM SUK
CHOI, BYEONGJOON LEE, BEOMSEOP
SHIN, JUNG YONG KIM and JINSOOK
YOON Prohibited Immigrants using his purported
discretion under section 13(2)(g) of the
Immigration Act **AND** purportedly making an
ORDER and/or **ORDERING** the removal of **JIN**
LEE, NAM SUK CHOI, BYEONGJOON LEE,
BEOMSEOP SHIN, JUNG YONG KIM and
JINSOOK YOON from Fiji.**

BETWEEN : **SUNG JIN LEE** currently in immigration detention and/or unlawful
custody of the Respondent.

1ST APPLICANT

- AND** : **NAM SUK CHOI** currently in immigration detention and/or unlawful custody of the Respondent. **2ND APPLICANT**
- AND** : **BYEONGJOON LEE** currently in immigration detention and/or unlawful custody of the Respondent. **3RD APPLICANT**
- AND** : **BEOMSEOP SHIN** currently in immigration detention and/or unlawful custody of the Respondent. **4TH APPLICANT**
- AND** : **JUNG YONG KIM** currently in immigration detention and/or unlawful custody of the Respondent. **5TH APPLICANT**
- AND** : **JINSOOK YOON** currently in immigration detention and/or unlawful custody of the Respondent. **6TH APPLICANT**
- AND** : **THE MINISTER FOR HOME AFFAIRS & IMMIGRATION** of 1st and 2nd Floor, New Government Wing, Government Buildings, 26 Gladstone Road, Suva. **1ST RESPONDENT**
- AND** : **THE ATTORNEY-GENERAL OF AND FOR THE REPUBLIC OF THE FIJI ISLANDS** **2ND RESPONDENT**

Appearances : Mr. Gordon R. and Mr. Pillay W. for the Fifth Applicant
 : Ms. Solimailagi O. and Mr. Kant S. for the Respondents

Date of Hearing : 12 June 2025

Date of Ruling : 12 June 2025

EX TEMPORE RULING

1. Before me now is an urgent application by Mr. Jung Yong Kim filed on the 06 of June 2025.
2. Kim seeks an Order of this court to vary the bail conditions which were set on Monday 02 December 2024.

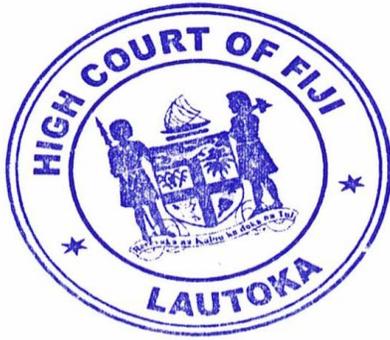
3. He intends to travel to Nauru on Friday 13 June 2025 for twenty-four (24) hours only in order to attend meetings with the President of the Republic of Nauru, His Excellency Mr. David W.R Adeang and other Nauru Government officials.
4. Apparently, the Nauru Government has been immensely impressed with the investments and other developments which the Grace Road Group of Companies has done and is continuing to do in Fiji.
5. On 31 May 2025, His Excellency visited Fiji specifically to meet with Kim. During that visit, he was taken around the various projects of Grace Road in Fiji. In particular, they visited Grace Road's Hydroponic Farm in Nadi. The Government of Nauru is open to exploring opportunities for collaborative projects with Grace Road in Nauru.
6. On 04 June 2025, His Excellency wrote a letter to Kim to formally invite him to Nauru “**to further explore opportunities for collaboration and partnership in various sectors**”.
7. Kim welcomes this invitation. He wants to travel to Nauru on Friday 13 June 2025 and to return on Saturday 14 June 2025.
8. The only thing stopping him are two specific bail conditions which were set in December 2024:
 - (i) that he surrenders his Vanuatu Passport No. RV0154470 to the Lautoka High Court Registry.
 - (ii) that he continues to reside at 11 Wainidovo Road, Navua- Grace Farm.
9. The background to this case is set out in all my earlier rulings and in the rulings of other Judges.
10. After considering the Summons (Expedited Form) and the supporting affidavit of Kim sworn on 06 June 2025 and filed on the same day, and the submissions filed for and on behalf of the State, I refuse the application. My reasons follow:
 - (i) there is currently a stay of the decisions of the Minister and the Permanent Secretary for Immigration which were made on 31 August 2023.
 - (ii) the effect of that stay is to stop the execution of the order to remove him and others from Fiji, pending the determination of the substantive issues in this case.
 - (iii) the key substantive issues in this case, will resolve whether:
 - (a) the State is entitled to deport/remove/extradite the applicant from Fiji to South Korea to face some criminal allegations, OR
 - (b) whether he should be allowed to travel to Vanuatu instead, OR
 - (c) whether he should remain in Fiji.
 - (iv) the applicant is allowed to travel to Nauru, there is a real risk that he will detour to

Vanuatu from there and not return to Fiji. This would totally defeat the stay order currently in place which is to preserve the status quo pending the determination of the above questions.

- (v) the court at this time is foremost concerned about preserving the status quo and in ensuring that the processes are not wasted.
 - (vi) the letter of invitation from His Excellency does not specifically set a time for Kim to be in Nauru. It is an open invitation. Kim may attend this meeting by video link for the time being.
 - (vii) in any event, there is no reason why anyone else from the Grace Road Group of Companies should not attend to Nauru, for the time being.
11. While I accept that Kim is not a convicted criminal nor is he yet facing any criminal charges in Fiji or anywhere else in the world, I refuse the application purely in the interest of preserving the status quo in this case.
12. Having said that, I assure both counsel that this decision to refuse the application to allow Kim to travel to Nauru and back is, in no way, a reflection of how I intend to rule in the substantive Judicial Review matter which is pending before me. That substantive matter raises various issues including:
- (i) the justiciability of the decisions of the Minister in light of the ouster clauses and the fact that there are matters of national security (supposedly) involved.
 - (ii) whether the Minister had in fact, exercised the section 13 (2)(g) immigration power under the Immigration Act – unlawfully – by declaring the applicant as a “prohibited immigrant” to pursue an extradition.
 - (iii) whether, in any event, the purported “threat to national security” which the applicant posed, is founded on relevant material
13. I have also considered the various other arguments raised by both counsel. Mr. Sharma and Mr. Gordon argue that the Courts have in the past – allowed accused persons facing serious criminal charges – to travel out of Fiji – by varying their bail conditions. Mr. Gordon raises the case of **Romit Parshottam Meghji** (HAM 212 of 2023) where Mr. Justice Aluthge allowed the accused facing a rape charge to travel out of Fiji to attend to his business commitments abroad. He also refers to the case of **Aivaz Sayed-Khaiyum** (Criminal File No. 548/2023) where the Magistrate Court had allowed the accused facing a charge of Abuse of Office to travel out of Fiji for urgent medical reasons.
14. The difference between the above two cases is that they involve two Fijians facing a criminal charge. The only issue for them was their flight risk.
15. In this case, the applicant is a former citizen of the Republic of South Korea who, following the commencement of this Judicial Review case, has also acquired Vanuatu citizenship. Ms. Solimailagi draws attention to the fact that he is, as yet, still technically a prohibited immigrant subject to this Court granting a certiorari or the Minister of Immigration retracting his own earlier decision. To allow him to leave Fiji even

temporarily and to return would set a bad precedent and would amount to this court usurping the relevant executive powers over the control of Fiji's borders.

16. In the final, I decline the application. Costs to the state which I summarily assess at \$1,500.00 (one thousand five-hundred dollars only).



Anare Tuilevuka
JUDGE

12 June 2025