



**IN THE DISTRICT COURT OF NAURU
AT YAREN
CRIMINAL JURISDICTION**

Criminal Case No. 34 of 2025

BETWEEN: **LOGANIU KAMTAURA**

APPLICANT

AND: **THE REPUBLIC OF NAURU**

RESPONDENT

BEFORE: Resident Magistrate Mr. Vinay Sharma

DATE OF HEARING: 23 December 2025

DATE OF RULING: 24 December 2025

APPEARANCE:

APPLICANT: C Adeang

RESPONDENT: S Shah

RULING

[Application for Bail pending Trial]

INTRODUCTION

1. I am to decide the applicant's Notice of Motion for bail pending his trial, which was filed on 19 December 2025, together with two affidavits in support of his sureties.
2. The applicant is charged with one count for obstructing a public official contrary to section 242(a)(b) of the *Crimes Act 2016* and another count for escape from custody contrary to section 229 of the *Crimes Act 2016*.
3. The prosecution filed an Affidavit of Constable Vika Dageago in Opposition to Bail on 23 December 2025.
4. I heard the bail application on 23 December 2025.
5. The prosecution submitted that bail should not be granted to the defendant because it has a strong case against the applicant. There are no other grounds or materials, apart from that submission, to oppose the bail application. Further, the prosecution informed the court that the defendant is a first-time offender.
6. The applicant's counsel submits that the offences for which the applicant has been charged are bailable offences under the Bail Act 2018 ("the Act"), and based on that, she seeks that the applicant be bailed pending trial.
7. The applicant's sureties deposed in their affidavit that they are willing to be bonded in the sum of \$1000 to ensure the applicant's attendance in court to answer the charges laid against him.
8. I am to determine whether there are any justifiable grounds to refuse bail.
9. The following are the reasons for my ruling.

APPLICANT'S PERSONAL CIRCUMSTANCES

10. The applicant is an Education Procurement Officer at the Education Department.
11. The applicant resides with his elderly mother and older sister at Boe District. He helps his elderly mother and older sister financially. He also helps his elderly mother at home.
12. The applicant has a child. He also financially supports her.

DOES THE PRESUMPTION IN FAVOUR OF BAIL APPLY TO THE APPLICANT?

13. Section 4 of the Act provides as follows:

"4 Entitlement to bail

(1) Subject to the provisions of this Act, every accused person has a right to be released on bail.

(2) A court may grant bail to an accused person charged with an offence in accordance with the provisions of this Act.

(3) The presumption in favour of the granting of bail to an accused person under subsection (1) may be rebutted by a prosecutor or any other person, where the interests of justice so requires."

14. The applicant is a first-time offender. There is no material before me regarding any previous breach of bail conditions.
15. Sections 4A and 4B of the Act do not apply to the applicant.
16. The offences with which the applicant is charged are bailable offences, in which the presumption in favour of bail applies. Therefore, I am duty-bound to release the defendant on bail unless the prosecution has provided sufficient material to rebut the presumption of bail. The onus is upon the prosecution to rebut the presumption in favour of bail.

WHAT ARE THE APPLICABLE LEGAL PROVISIONS IN RELATION TO BAIL APPLICATIONS PENDING TRIAL?

17. Section 13(1)(a) of the Act provides the Resident Magistrate with the power to grant bail to an accused person brought or appearing before him or her.
18. Section 17 of the Act provides the following general provisions in relation to a bail determination by a court:

17 General provisions for bail determination

(1) When deciding whether to grant bail to an accused person, a ... Court ... shall take into account the time the person may have to spend in custody before trial if bail is not granted.

(2) The primary consideration in deciding whether to grant bail is the likelihood of the accused person appearing in court to answer the charges laid against him or her.

19. Section 18(1) of the Act provides that “*a person making submissions to a court against the presumption in favour of bail shall address the: (a) likelihood of the accused person not surrendering to custody and not appearing in court; (b) interests of the accused person; and (c) public interest and the protection of the community.*”
20. Section 19(1) of the Act provides that “*an accused person shall be granted bail unless in the opinion of ... the court ... : (a) the accused person is unlikely to surrender to custody and appear in court to answer the charges laid; (b) the interests of the accused person will not be served through the granting of bail; or (c) granting bail to the accused person would endanger the public interest or make the protection of the community more difficult.*
21. Section 23 of the Act provides as follows:

23 Restrictions on imposing bail conditions

(1) Bail shall be granted unconditionally unless the police officer or the court, as the case may be, considers that one or more of the conditions in Section 22 shall be imposed for the purpose of:

(a) ensuring the accused person's surrender into custody and appearance in court;

(b) protecting the welfare of the community; or

(c) protecting the welfare of any specially affected person.

(2) A condition shall only be imposed:

(a) to protect the welfare of the community;

(b) to protect the welfare of any specially affected person; or

(c) in the interests of the accused person, and may only be imposed if required by the circumstances of the accused person.

22. Thomas J in *Williamson v Director of Public Prosecutions* [2001] 1 Qd R 99 at [22] made the following observations concerning the considerations that a court must undertake when assessing unacceptable risk:

"No grant of bail is risk-free. The grant of bail, however, is an important process in civilised societies which reject any general right of the executive to imprison a citizen upon mere allegation or without trial. It is a necessary part of such a system that some risks have to be taken in order to protect citizens in those respects. This does not depend on the so-called presumption of innocence which has little relevance in an exercise which includes forming provisional assessments upon very limited material of the strength of the Crown case and of the defendant's character. Recognising that there is always some risk of misconduct when an accused person or for that matter any person, is free in society, one moves to consideration of the concept of unacceptable risk."

23. In *R, R (on the application of) v Snaresbrook Crown Court* [2011] EWHC 3569 (Admin) (08 December 2011), it was held that the mere fact that an accused had been convicted and that a custodial sentence was inevitable was not sufficient to establish that the accused would abscond, especially when bail conditions could be imposed to mitigate the risk. Therefore, I find that before concluding whether bail should be refused pursuant to section 19(1) of the Act, I must examine whether bail conditions

can be imposed on the applicant to minimise any risk that is evident in relation to matters identified in sections 18 and 19 of the Act.

24. In *James v Police* (1986) 2 CRNZ 54 (HC), it was held that, despite an offence being serious in nature, a delay in the trial of an accused may justify the release of the accused on bail. With this regard, the following observations were made in *Jordan, Re Application for Bail* [2023] NIKB 95 (29 September 2023) at [37]:

[37] *In Idalov v Russia No.5826/03 [2012] the Grand Chamber stated:*

“140. The existence and persistence of a reasonable suspicion that the person arrested has committed an offence is a condition sine qua non for the lawfulness of the continued detention. However, after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds are ‘relevant’ and ‘sufficient’, the Court must also ascertain whether the competent national authorities displayed ‘special diligence’ in the conduct of the proceedings (see Labita, cited above, §§ 152 and 153). Justification for any period of detention, no matter how short, must be convincingly demonstrated by the authorities (see Shishkov v Bulgaria, no. 38822/97, § 66, ECHR 2003-I). When deciding whether a person should be released or detained, the authorities are obliged to consider alternative measures of ensuring his appearance at trial.”

IS THERE AN UNACCEPTABLE RISK OF THE APPLICANT ABSCONDING?

25. Section 19(2)(a) of the Act provides that the following factors need to be considered by the court to determine whether there is an unacceptable risk that the applicant would abscond:

(2) In forming the opinion required by subsection (1), a police officer or court shall have regard to all the relevant circumstances and in particular:

(a) in relation to the likelihood of surrender to custody:

(i) the accused person's background and community ties, including residence, employment, family situation, previous criminal history;

(ii) any previous failure by the accused person to surrender to custody or to observe bail conditions;

(iii) the circumstances, nature and seriousness of the offence;

(iv) the strength of the prosecution case;

(v) the severity of the likely penalty if the accused person is found guilty; or

(vi) any specific indications such as that the accused person voluntarily surrendered to the police at the time of arrest, or, as a contrary indication, was arrested trying to flee the country.

26. A risk that is a “mere possibility” or a “theoretical possibility” does not amount to a real risk.¹
27. The nature of the offending and the possible severity of the punishment determine whether there is a real risk of the applicant absconding.² A serious offence and the possibility of a severe punishment establishes a real risk of the defendant absconding.
28. The applicant is a civil servant. He lives with his elderly mother and supports her both financially and non-financially. He also has a daughter. He also supports his daughter. He is a first-time offender. He has never breached any bail conditions previously.
29. The offences with which the applicant is charged will be tried in the District Court summarily. The maximum sentence for count 1 is 2 years, and the maximum sentence for count 2 is 5 years.

¹ Hammond v Commonwealth (1982) 152 CLR 188 per Gibbs CJ (at 199)

² Sabau -v- The State of Western Australia [2007] WASC 183 (9 August 2007) (at paragraph 23)

30. I have considered the prosecution's case. The applicant's identity is not disputed. If the defendant is found guilty, a custodial sentence is likely, though it may not be lengthy.
31. Count 2 of the offence is for escape from custody. He is innocent until proven guilty. However, the allegation of escape from custody, together with the seriousness and strength of the case against him, does establish a risk that the applicant may abscond. However, I find that the level of risk can be mitigated by bail conditions such as surrendering his passport, imposing travel restrictions, and requiring two sureties. Therefore, I find that, with the necessary bail conditions, it is unlikely that the applicant will abscond from the charges laid against him.

IS THE GRANT OF BAIL AGAINST THE APPLICANT'S INTEREST?

32. Section 19(2)(b) of the Act provides that the following factors need to be considered by the court to determine the applicant's interest:

19 Reasons for refusing bail

...

(2) In forming the opinion required by subsection (1), a police officer or court shall have regard to all the relevant circumstances and in particular:

...

(b) in relation to the interests of the accused person:

(i) the length of time the accused person is likely to have to remain in custody before the case is heard;

(ii) the conditions of that custody;

(iii) the need for the accused person to obtain legal advice and to prepare a defence;

(iv) the need for the accused person to be at liberty for other lawful purposes such as employment, education, care of dependants;

(v) whether the accused person is a child, in which case Section 4C applies; or

(vi) whether the accused person is incapacitated by injury or intoxication or otherwise in danger or in need of physical protection; and

33. I have considered the applicant's personal circumstances. I find that it is in his interest that he be released on bail so that he may be able to continue his employment and support his family. Further, it is most likely that the applicant's trial will take place towards the end of next year, or worst-case scenario in 2027. This is based on the court's and trial counsels' availability for trials next year. In the current circumstances, there are no justifiable grounds to remand the applicant in custody until his trial.

SHOULD BAIL BE REFUSED IN THE INTERESTS OF JUSTICE?

34. Section 19(2)(c) of the Act provides that the following factors need to be considered by the court to determine whether bail should be refused on the grounds of public interest:

19 Reasons for refusing bail

...

(2) In forming the opinion required by subsection (1), a police officer or court shall have regard to all the relevant circumstances and in particular:

...

(c) in relation to the public interest and the protection of the community:

(i) any previous failure by the accused person to surrender to custody or to observe bail conditions;

(ii) the likelihood of the accused person interfering with evidence, witnesses or assessors or any specially affected person; or

(iii) the likelihood of the accused person committing an arrestable offence while on bail. (emphasis added)

35. The prosecution did not proffer any material suggesting that the applicant had failed to observe bail conditions on previous occasions. The applicant is a first-time offender. The applicant is charged with escape from custody in this matter; however, he is presumed to be innocent until proven guilty. There is no other material before me suggesting that the applicant failed to surrender to custody on a previous occasion, apart from the charge in this matter.
36. The prosecution did not proffer any material that would suggest that there is a likelihood that the applicant will interfere with evidence or witnesses if he is released on bail. Further, there is no material before the court to suggest that the applicant will commit an arrestable offence while on bail.
37. No public interest issues under section 19(2)(c) of the Act arise in this matter. If there are, the bail conditions that would be imposed in this matter will mitigate them. Therefore, I find that bail should not be refused in the interests of justice.

ORDERS

38. The orders of the court are as follows:
- i. That bail is granted in the applicant's own recognisance, and he is to be bonded in the sum of \$1000 to ensure his attendance in court to answer the charges laid against him.
 - ii. That the applicant is to provide two sureties who are to be bonded in the sum of \$1000 each.
 - iii. That the additional conditions of bail are:

- a. That the applicant shall reside at his current place of residence in Boe District and shall not change his place of residence without the leave of this court.
- b. That the applicant shall surrender his passport to the Registrar of Courts forthwith and shall not leave the Republic without the leave of this court. The Deputy Registrar of the District Court is to inform the Director of Immigration of the travel restrictions imposed on the applicant accordingly;
- c. That the applicant must not interfere with prosecution witnesses and shall not cause some other person to do so on his behalf;
- d. That the applicant shall not reoffend whilst on bail;
- e. That the applicant shall report to the Central Police Station on Saturdays by 6 pm on a fortnightly basis commencing from 27 December 2025; and
- f. The applicant shall personally attend at the Court House, District Court on the 29th day of January 2024.

Dated this 24th day of December 2025.


Resident Magistrate
Vinay Sharma

