

**REGINA .V. ALEX BARTLETT**

High Court of Solomon Islands  
(Palmer CJ)

Criminal Case Number 427 of 2005

Date of Hearing: 15<sup>th</sup> November 2006

Date of Judgement: 15<sup>th</sup> November 2006

P. Little for the Crown  
S. Lawrence for the Defendant

**Palmer CJ.:**

This is an application for bail by Alex Bartlett ("Bartlett"). He has been remanded on a charge of conspiracy contrary to section 383 of the Penal Code Act [cap. 26], that between 12<sup>th</sup> - 24<sup>th</sup> April 2006 he conspired with others to commit a felony, namely riot.

The matter for which he has been charged related to allegations that he with others were responsible for the planning of the riots that occurred on the 18<sup>th</sup>-19<sup>th</sup> April 2006 ("April riots") following the announcement that Snyder Rini was the new Prime Minister of Solomon Islands. It was alleged Bartlett and others did not want Rini to be the Prime Minister and had orchestrated events to take place in the event the candidate of their choice was unsuccessful.

Bartlett had also been charged with other offences for which he enjoyed bail. The most recent charges emanate from allegations of arson arising from the April riots. He was arrested and charged but granted bail by the Magistrates Court on those charges and confirmed on appeal by this court.

He was then later re-arrested for the conspiracy charges on 29<sup>th</sup> August 2006 and has been remanded since.

He now comes to court for bail following an unsuccessful application for bail in the lower court. This is a fresh bail application before this court.

The facts relied on relate to a meeting alleged to have been convened at the Airport Motel on a lunch hour on the 13<sup>th</sup> April 2006. Those implicated apart from Bartlett himself included, Charles Dausabea, David Dausabea, Nelson Ne'e, Jacob Soeasi, Willy Titia and Rex Mai.

The only evidence which will be relied on by prosecution at this point of time in support of this allegation of conspiracy comes from the witness, Willie Titia ("hereinafter referred to as "Willie"). His real name it seems is Willie Fa'afunua. He is also referred to as Willie Siofa. Only his statement directly implicates Bartlett's involvement in the conspiracy charges. Subsequent inquiries by police and statements obtained of workers at the Airport Motel however have expressly denied knowledge of such meetings. His co-accuseds and those alleged to have been present at that meeting have denied the existence of such meeting ever taking place.

Further, there is material in the form of an affidavit before me in which it is alleged he made a statement recanting on his earlier statement in which he implicated Bartlett and others at the Airport Motel meeting, and a further statement recanting that affidavit. I have been provided as well with a copy of the criminal history of Willie and pending charges on passport fraud and fraudulent tax evasion.

In assessing the strength of prosecution case in respect of this conspiracy charge, all the material tendered above are relevant. They go to show that whilst there is direct material implicating Bartlett and others of a conspiracy charge, prosecution's case cannot be said to be strong.

Issues of credibility, veracity, weight and reliability of evidence will be matters for the trial proper. I cannot ignore the protruding fact that even from the outset, the credibility of the crucial prosecution witness will be a relevant issue at trial. And as the only critical witness of that conspiracy charge, the likelihood of a conviction at trial cannot be described as a real possibility even at this point of time and thereby the likelihood of imprisonment. This factor alone must weigh heavily in favour of this bail application.

On the issue of interference of witnesses, since his release on bail to his arrest on or about 29<sup>th</sup> August 2006, I am not satisfied it has been demonstrated on the material before me, that Bartlett had sought to interfere with any witnesses. There is an allegation that he was seen talking with one of the co-accused in another case he had been charged with but the material before me does not satisfy me that it should be used as a basis for denying Bartlett bail. On the question of interference with police investigation, I am not satisfied on the material before me that this is a risk to be weighed against his right to bail and thereby deprivation of his liberty.

On the issue of risk of flight, I am not satisfied on the evidence before me that the conspiracy charge has changed the circumstances affecting his right to bail. There has been no evidence to suggest that he is likely to flee the jurisdiction if released on bail. He has a lot of business and family interests at stake in the country and he has demonstrated his sincerity in the matter by surrendering his passport and offering to put up a large sum of money as principal bail.

On the issue of re-offending, again I am not satisfied that the conspiracy charge changed the circumstances so that bail should now be denied. Bartlett was previously on bail for the other riot charges and I am simply not satisfied that the conspiracy charges changes anything in spite of the manner in which prosecution seeks to put prosecution's case now that the conspiracy charges elevates all the risk factors which this court is required to consider and that bail should be refused.

Whilst the health issues previously raised have been addressed whilst he was in remand and there is material to show that a person in custody will be looked after, taking into account the totality of the factors raised before me and putting them all into perspective, this can only support his application for bail today. This includes his family circumstances and support, that he has a regular place of residence, that he is not only a prominent business man but leader as well in the community and that when previously bailed there is no evidence to suggest he has breached any of them despite allegations that he has. I note he was

previously admitted to bail even in the recent riot charges and that but for this conspiracy charge he would have been still on bail.

I also take into account the number of sureties he has offered to court to ensure he does not abscond and appears in court to answer bail. I note also he has been previously remanded in custody for a considerable period of time awaiting trial in his other charges before been released on bail. The earliest this conspiracy charge may come on for hearing is in April 2007. That is still some five months away.

I am not satisfied prosecution has demonstrated that the risks to society if he is released on bail pending trial and the risks to a fair trial are any greater than his rights to liberty while waiting for his trial to be heard. I grant bail on the following conditions:

1. **That he provides 3 sureties to the satisfaction of the court.**
2. **Continues to reside at his residential home at Lengakiki.**
3. **Reports weekly to the Central Police Station not later than 4.00 pm each Fridays.**
4. **That his passport is surrendered to the Registrar of High Court.**
5. **Not to contact any Crown witnesses except through his Solicitor.**
6. **That he enters into a principal bail of \$10,000.00.**
7. **That he be confined to his residence between the hours of six o'clock in the evening to six o'clock in the morning.**
8. **That he appears in court as and when required.**

**The Court.**