

HOLLAND TAUNI-v-REGINA

HIGH COURT OF SOLOMON ISLANDS
(Mwanosalua, J.)

Criminal Case No. 431 of 2006

Hearing: 9 November 2006
Ruling: 15 November 2006

N. Mirou for the Respondent
A. Mani for the Applicant

RULING

Mwanosalua, J: This is an application for bail pending trial. The Applicant is Holland Tauni. He is charged with incest by male under the Penal Code. The Magistrates Court for the Eastern District in Kirakira refused his application for bail. He is currently on remand at the Kirakira Prison awaiting his trial. He now applies to this court by his advocate for bail pending trial.

The Crown opposed the application on two grounds. These grounds are that if the applicant is granted bail he may re-offend and interfere with Crown witnesses. The Crown contends that it would be in the best interest of the Applicant to remain in custody pending trial in early 2007. And that incest is a serious offence carrying a sentence of imprisonment for seven years. His advocate seeks bail for his client on several grounds. They are that his client is unlikely to abscond; his client is innocent until proven guilty or has entered a guilty plea; his client is unlikely to re-offend; the first of the alleged offences occurred in 2001; that the Applicant was arrested and remanded at the Kirakira Prison since 21 July 2001; and that no date has yet been set down for trial.

This court notes that the principal witnesses against the Applicant include his wife, two of his other daughters and the victim herself who is his first daughter. These four witnesses are all eye witnesses to the offences upon which he was remanded in custody. In such circumstances, the Crown would genuinely have fear that he may interfere with their evidence if he were released to live with them, pending trial.

But this court further notes that he fully co-operated with the police investigation on his case by readily admitting the Commission of incest with his daughter. This is a simple case to dispose off in court as the Applicant may enter a guilty plea on the strength of the evidence against him.

The Prosecution advanced no reasons for the delay in this case since the arrest of the Applicant, other than informing the court that the Magistrate left Kirakira last week for the Temotu Circuit, and that this case would come before the Court in Kirakira in 2007. Whilst the Applicant was arrested and charged in July 2006, why was his case not prosecuted before the Magistrate left for Temotu last week. There is

evidence that the victim was beyond thirteen years of age when the offences were committed. The Magistrate would have jurisdiction to hear the case. A sanction could easily be forwarded to the Police at Kirakira to dispose off the case there summarily.

Incest is an offence which the Magistrate and this Court may grant bail pending trial in cases where reasonable grounds are present. In this case, the Applicant admitted having sex with his daughter. There are four eye witnesses to incest with the victim. It is unlikely that he would dispute his confession and the voluntariness of that confession. The incest with his daughter resulted in the conception and the birth of a son to his daughter. This child is real evidence that the Applicant had committed incest with the victim.

The view of this court, is that, the Applicant can be prevented from re-offending and interfering with the evidence of his wife and his children by imposing strict conditions on him.

This court will exercise its discretion to grant bail to the Applicant with conditions. Police in Kirakira will immediately lodge an application with this Court to alter his bail conditions below and order him to return to custody pending his trial should he be in breach of any the conditions.

The Applicant is granted bail on the following conditions:

1. **Deposit a cash bail of two hundred dollars with the Magistrates Court in Kirakira before he is released from Kirakira Prison.**
2. **To live at Hunarite village until trial or further orders of this Court.**
3. **Not to enter Tawapuna village at all times, whilst, Annie Nalvin, Rosa Teuna, Tifany Kamaetahi and Helina Hanganimae live in that village.**
4. **Not to talk to Annie Nalvin, Rosa Teuna, Tifany Kamaetahi and Helina Hangimae directly or indirectly whilst on bail.**
5. **To report at Kirakira Police Station every twenty-one days from First day of release from Kirakira Prison until trial.**

I order accordingly.

Francis Mwanosalua
Puisne Judge