

**IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA AND AITUTAKI
(CRIMINAL DIVISION)**

**CR NO's 2/2022, 3/2022
4/2022, 5/2022
6/2022, 7/2022
8/2022, 9/2022**

POLICE

v

**JEREMIAH LOW
JOHN JESSIE ROPATI TUIMAVAVE
NGAMETUA GRACE KRISTIAN & PAREANGA KIRIKAVA
QUINTON ALAN SCHOFIELD
SAMUEL MARSTERS IOANE
UTARIKI BISHOP
RIMAMOTU PIRIANGAOA PAORA
GRAY RONALD PITOMAKI TURIA**

Date of Zoom hearing: 28 January 2022

Appearances: Ms J Crawford for the Crown
Ms M Tairea, for defendants (Low, Tuimavave, Kirikava,
Schofield)
Mr M Short, for defendants (Ioane, Paora)
Mr N George, for defendant (Bishop)
Mr G Turia, for himself as defendant

Oral Decision: 28 January 2022

**ORAL DECISION OF HUGH WILLIAMS, CJ
(re. Bail)**

[1] All matters concerning Operation Tavake and its eight accused were called for mention today in order to review the current situation concerning the cases and make arrangements for the future progress of the matter.

[2] Of the eight accused, Mr Paora was remanded in custody at the hearing on 14 January 2022, but Mr Short on his behalf has filed an application for bail to be dealt with today.

[3] Of the other seven accused, Ms Crawford for the Crown advised that Messrs Schofield and Ioane were arrested yesterday on charges of breach of bail, namely the breach of the non-association clause in the previous bail terms and were now in custody. The allegation was apparently that they were seen drinking together.

[4] As far as all the accused other than Messrs Paora, Schofield and Ioane are concerned, all matters concerning them will be adjourned and they will be remanded on current bail conditions until a callover which will be organised during the March 2022 sessions, with the actual dates and times of the callover to be advised by the Registrar.

[5] As far as Messrs Schofield and Ioane are concerned, it appears from Ms Tairea's explanation of the background to her client's arrest that, were a breach of the non-association clause, it was relatively minor and probably resulted from a lack of thinking on their part as to precisely what their obligations were.

[6] It needs to be emphasised, not just to them but to all of the accused, that it is absolutely vital that they strictly comply with all the terms of bail granted on 14 January 2022. All of those will now recognise how important it is that they comply with those terms of bail to the letter, having seen what has happened to Messrs Schofield and Ioane for what would appear to be a brief and not especially grave breach of the non-association clause.

[7] With that warning to all of them, all the seven accused other than Mr Paora are re-admitted to bail on the same conditions as previously. They should all take the remarks I have just made very much to heart, particularly Messrs Schofield and Ioane who have been in custody overnight. Even Mr Short's abbreviated: "Don't call, don't talk, don't see" does not entirely cover the breadth of the accused's obligations. During submissions the Court put it as: "There is to be no contact whatsoever between any of them, directly or indirectly, via their families or by any other means." and all accused can now see how watchful the Police will be for the slightest sign of a breach.

[8] In relation to Mr Paora, Mr Short makes a strong case for bail on compassionate grounds and his application is supported by a number of letters from Mr Paora's wife and from prominent members of the Aitutaki community concerning Mr Paora's place in that community.

[9] He is a self-employed farmer and fisherman. With the borders now open, his markets for his produce have re-opened and the point the submissions made is that he needs to be able to be available to harvest his crops and to conduct his fishing operations in order to supply the local resorts now the tourists are returning.

[10] Against that, the amount of cannabis found in Mr Paora's possession was substantial and it appears that from Ms Crawford's submissions, that not only will he be charged with possession of cannabis but it will be he will also be charged with cultivation as he now is but will also be charged with possession for supply, an offence which carries a substantial term of imprisonment as the maximum punishment.

[11] No strong case has been made for Mr Paora's admission to bail at the present time. He has admitted possession of the substantial amount of material discovered on execution of the search warrants and that it appears that once the necessary preliminaries of disclosure and the like, and the settling of charges is concluded, he may well plead guilty to whatever informations he then faces.


[12] The likelihood of a term of imprisonment must be high if he is convicted and it might well be substantial. That is not to pre-judge the matter, but the amount of material and the seriousness of the charges resulting from execution of the search warrant is such that imprisonment must be seen as a very realistic possibility as to the ultimate outcome.

[13] However, bail is not to punish people. It is to ensure that they comply with their obligations to the Court in relation to the progress of criminal prosecutions. So it would not be right to remand Mr Paora in custody for a lengthy period. But it is right in his circumstances to remand him in custody for a further period until the investigation can proceed further and he can know precisely what charges he is likely ultimately to face and decide what plea to enter in relation to them.

[14] In those circumstances, the application for bail is declined for the moment but it is only fair that Mr Paora's case should be reviewed earlier than the March 2022 general Criminal callover, and accordingly the application for bail will be adjourned until **Friday, 11 February 2022 at 10am**, when reconsideration will be given to Mr Paora's position.

[15] In delivering this judgment, I have overlooked the schedule of reporting times for the accused who are to be admitted to bail. They are:

- a) 1pm – Mr Turia
- b) 1.30pm – Mr Tuimavae
- c) 2pm – Mr Kirikava
- d) 3pm – Mr Ioane
- e) 3.30pm – Mr Low
- f) 4pm – Mr Schofield (once he is released from custody)
- g) 9am – Mr Bishop



Hugh Williams, CJ