

IN THE HIGH COURT OF FIJI  
AT SUVA  
CRIMINAL JURISDICTION

Criminal Case No: HAC 065 of 2008

STATE

v.

SETEFANO NAUSU

Hearing: 20<sup>th</sup> May 2008  
Ruling: 21<sup>st</sup> May 2008

Counsel: Mr. V. Vosarogo for Applicant  
Mr. A. Rayawa for State

BAIL RULING

The Applicant makes an application for bail pending trial. He was charged on the 27<sup>th</sup> of April 2008 with the murder of Sarojini Lata Singh. He is also charged on one count of robbery and one count of robbery with violence. Counsel applies for bail on the grounds that the Applicant is not a flight risk, that the seriousness of the offences is not the only relevant factor in the grant or refusal of bail, and that the Applicant will live with his father in Colo-i-Suva until trial. His father is the caretaker of the Scout's Headquarters in Colo-i-Suva, and has agreed to stand as surety for his son.

The State opposes the application on the grounds that the Applicant has another pending case in Nasinu for which he was granted bail and in breach of which he is alleged to have committed these offences, that he is still serving a suspended sentence imposed in August 2007, that the offences are serious and the investigations are ongoing and that the prosecution has a strong case against him. The State called Detective Sergeant Jolame of the Valelevu Police Station to tender a set of disclosed witness statements, the interview record of the Applicant, a copy of the post mortem report and a certified copy of the Applicant's previous convictions.

The summary of facts also tendered, discloses a case of the robbery of a bread delivery van at Colo-i-Suva on the 27<sup>th</sup> of April 2008. After the robbery, the Applicant is alleged to have thrown a big stone which hit Sarojini Lata Singh, who was seated in the van. The Applicant is then alleged to have tried to throw a beer bottle at the driver of the delivery van, Krishna Jay Kumar. Sarojini Lata Singh later died at the CWM Hospital of cranio-cerebral injuries secondary to a blunt impact to the head.

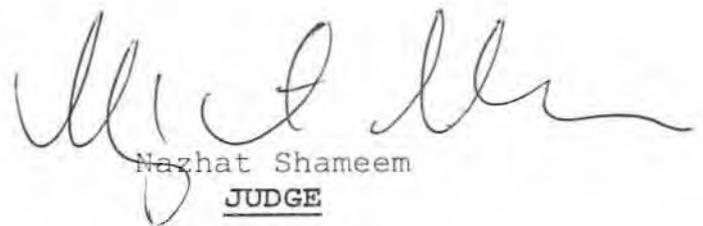
The facts then state that the Applicant robbed another vehicle 10 metres away, a taxi driven by Ashok Kumar. He is alleged to have stolen a mobile phone after punching Ashok Kumar. He was then chased by Ashok Kumar and two passengers, and was confronted by a villager who assaulted him and seized the phone from him. Under caution, the Applicant is alleged to have confessed. He has 8 previous convictions. On the 16<sup>th</sup> of August 2007 he was convicted in the Nasinu Magistrates' Court of

act with intent to cause grievous harm and was given a 9 month term of imprisonment suspended for 3 years.

The Applicant is alleged therefore to have re-offended whilst on a suspended sentence. If he is indeed on bail on another matter, due for trial in June 2008, he has also allegedly re-offended whilst on bail. Of course, he is presumed innocent until proven guilty, but these matters together with the seriousness of the offence and the strength of the prosecution case persuade me that it is in the public interest that the Applicant remains in remand. Also relevant is that he lives in Colo-i-Suva and the witnesses who will be asked to identify him also live in that area and are known to him. The witness Meli Lababula knows him well enough to refer to him as "Tuks" in his police statement.

In these circumstances I consider that the prosecution has rebutted the presumption in favour of bail. Bail is refused. It will continue to be reviewed.



  
Nazhat Shameem  
JUDGE

At Suva  
21<sup>st</sup> May 2008