

IN THE HIGH COURT OF FIJI
AT SUVA
MISCELLANEOUS JURISDICTION

Crim Misc Case No: HAM 066/2013

BETWEEN : **ISEI KORODRAU**
APPLICANT

AND : **THE STATE**
RESPONDENT

COUNSEL : **Mr R Vananalagi for the Applicant**
Ms Vavadakua for the State

Date of Hearing : **07/08/2013**

Date of Ruling : **26/08/2013**

BAIL RULING

1. The applicant **ISEI KORODRAU** had applied for bail pending trial second time.
2. The applicant has been charged with one count of Rape pursuant to section 207(1)(2)(a) of Crimes Decree No:44 of 2009.
3. It was alleged that the applicant on 20th day of February 2011 had unlawful carnal knowledge with Adi Kaveni Bui the victim of this case.
4. Applicant's main ground of Bail is that he is in remand for more than two years.

THE LAW

5. Section (13)(4) of the Bail Act says: "if a person charged for an offence has been in custody for over 2 years or more and the trial of the person has not begun the court must release the person on bail subject to bail conditions the court may think fit to impose".
6. Applicant in his first Bail Application No: 194/2011 stated that he was first produced in the High Court for this case on 01/08/2011. Accordingly he has spent two years in remand prison.

7. But he has escaped from Court cell block on 28th March, 2013 and failed to appear in this case on 4th April 2013. After five days he was apprehended by the police.
8. Further the Applicant has a history of escaping from lawful custody also recorded on the 4th January, 2010.
9. In addition the Applicant has two pending cases. In one case trial will commence on 12th August 2013. The trial is set before this court on 28th October 2013.
10. State opposing to bail being granted submitted that the applicant has committed Rape, a serious offence which carries maximum penalty of life imprisonment if convicted. The applicant in this case if found guilty is likely to serve a custodial sentence.
11. State further submits that the Applicant in this case is not a beneficiary under section 13(4) of the Bail Act, as the period of 2 years remand has not been reached, also deducting the period in which the Applicant was not presented before the court due to his escape.
12. According to section 13(6) of the Bail Act “for the purpose of subsection (4), the period does not include any period of delay caused by the fault of the person”.
13. The Applicant escaped from remand custody on 28th March 2013 when this application went on for first call. Then this application was adjourned to 11th June 2013. The four months adjournment had to be made due to his escape from the custody.
14. The primary consideration in deciding whether to grant bail is the likelihood of the accused person appearing in court to answer charges laid against him.
15. Considering all these factors into account it is not in the interest of justice to grant bail to the Applicant. Bail refused.

P Kumararatnam
JUDGE

At Suva
26/08/2013