

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**MISCELLANEOUS JURISDICTION**

**MISCELLANEOUS CASE NO. HAM 094 OF 2013S**

**TEVITA GONEVOU**

**VS**

**THE STATE**

**Counsels : Ms. S. Vaniqi for Accused  
Ms. P. Madanavosa for State**

**Hearing : 24<sup>th</sup> May, 2013**

**Ruling : 24<sup>th</sup> May, 2013**

**Written Reasons: 20<sup>th</sup> September, 2013**

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**WRITTEN REASONS FOR GRANT OF BAIL**

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1. In Suva High Court Criminal Case No. HAC 147 of 2013S, the accused faced the following information:

**Statement of Offence**

**AGGRAVATED ROBBERY**: Contrary to Section 311 (1)

(a) of the Crimes Decree No. 44 of 2009.

**Particulars of Offence**

**TEVITA GONEVOU, JOELI SOAQALI and PETERO TUIVAKALEA** on the 2<sup>nd</sup> day of April, 2013 at Pacific Harbour in the Central Division, stole \$45,281.57 cash from **Chandreshwaran Goundar**.

2. On 19<sup>th</sup> April 2013, the accused first appeared in the High Court. He was remanded in custody in the Navua Magistrate Court on 5<sup>th</sup> April 2013. On 22<sup>nd</sup> April 2013, through his counsel, he filed a notice of motion and an affidavit in support, seeking bail pending trial. The prosecution replied with a submission on 20<sup>th</sup> May 2013. On 24<sup>th</sup> May 2013, I heard the parties, and granted bail to the accused. I said I would give my reasons later. Below are my reasons.
3. It is well settled that, an accused person is entitled to bail pending trial, unless the interest of justice requires otherwise (section 3(1) of the Bail Act 2002). It is also well settled that, the primary consideration in deciding whether to grant bail is the likelihood of the accused person turning up in court to take his trial on the date arranged (section 17(2) of the Bail Act 2002). It is also well settled that, in order for the court to decide the above issue, it is mandatory for it to consider each of the factors mentioned in section 19 of the Bail Act 2002, that is, the likelihood of the accused surrendering to custody, the interest of the accused and the public interest and protection of the community.

**Factor No. 1: The Likelihood of Accused Surrendering to Custody:**

4. The accused is 46 years old, married with 2 young children aged 17 years and 7 years old. He is a caretaker at Reddy Estate Pacific Harbour, earning more than \$100 per week. His wife does not work. He and his family resided at the estate. He had been at the estate for the previous 24 years. According to the prosecution, their case against the accused was strong. They relied on the complainant's direct evidence, and the accused's alleged confession, to ground a possible conviction. If found guilty, the accused faced a possible sentence of over 8 years imprisonment. Under this head, the accused's chances of bail are even, because he had resided, at the same address for the previous 24 years.

**Factor No. 2: The Interest of the Accused's Person:**

5. The accused will be tried next year. He has a counsel, and he can contact her to issue instructions, as and when he pleases. He is supporting a wife and 2 children, and had been residing at the same address for the previous 24 years. In my view, under this head, the accused's chances of bail are high.

**Factor No. 3: The Public Interest and the Protection of the Community:**

6. The allegation against the accused was very serious. It concerned an alleged attack on a businessman who was in the process of banking his business takings, that is, a total of \$45, 281.57 cash, on 2<sup>nd</sup> April 2013. It was said, the accused was not at the crime scene, but assisted the alleged robbery, by providing the necessary information. It appeared, he will not interfere with state witness. He is the sole bread winner, and according to his counsel, his sole pre-occupation is looking after his wife and his two girls. Under this head, the accused's chances of bail are even.

**Conclusion:**

7. Given the above, I granted him bail on 24<sup>th</sup> May 2013, and the above are my reasons.

**Salesi Temo**  
**JUDGE**

**Solicitor for Accused** : **Vaniqi Lawyers, Suva.**  
**Solicitor for State** : **Office of the Director of Public Prosecution, Suva.**