

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**MISCELLANEOUS JURISDICTION**

**CRIMINAL MISCELLANEOUS CASE NO: HAM 270/2013**

**BETWEEN : ORISI LUTUNAIVALU**  
**APPLICANT**

**AND : THE STATE**  
**RESPONDENT**

**COUNSEL : Mr O'Driscoll for the Applicant**  
**Mr A Vavadkua for the State**

**Date of Hearing : 02/12/2013**

**Date of Ruling : 06/12/2013**

**RULING**

- [1] The applicant Orisi Lutunaivalu filed an application for variation of the current bail conditions.
- [2] The applicant has been charged for one count of Rape Contrary to Section 207(1)(2) and (a) of the Crimes Decree No: 44 of 2009.
- [3] That the applicant is seeking bail variation on the following ground:
1. To visit Naibita Village, Wainibuka in the weekends to visit his wife and family friends.

- [4] Applicant filing an affidavit submits that his close friends and family reside in Naibita, Wainibuka. He further submits that the complainant in the case resides at Fulton College, Tailevu.
- [5] The Respondent submits that the complainant is the step daughter of the Applicant. They fear that if applicant's application for bail variation is granted there would be likelihood of interference of state witnesses. Respondent further submitted that the complainant has completed her studies at Fulton College, Tailevu and she might go and visit her mother (Applicant's wife) soon. Also submitted that the Applicant had spoken to the victim over the phone once.
- [6] The Applicant filing reply to Respondents response denied that he never interfered with state witnesses. Further he submits that the complainant has not completed her education at Fulton College. His phone details also filed along with his reply.
- [7] The Applicant's main purpose of visiting his village is to visit his wife and family friends. The Applicant's counsel submitted to this court that the Applicant's wife has been visiting him ever since he was granted bail.
- [8] Considering the charge, victim's tender age and possible interference of prosecution witnesses, I am not inclined to vary the bail condition.
- [9] The Application for bail variation is refused.
- [10] 30 days to appeal.

P Kumararatnam

JUDGE

At Suva

06/12/2013

