

IN THE HIGH COURT OF FIJI
AT SUVA
MISCELLANEOUS JURISDICTION

Crim. Misc. Case No: HAM 064/2014

BETWEEN : WATISONI SERELEVU
APPLICANT
AND : THE STATE
RESPONDENT
COUNSEL : Applicant in Person
Mr S Nath for the State
Hearing Date : 07/05/2014
Ruling Date : 16/05/2014

BAIL RULING

- [01] The Applicant Watisoni Serelevu had applied for bail pending trial for the fifth time.
- [02] The Applicant has been charged for Rape under Section 207(1) (b) and (3) of the Crimes Decree No: 44 of 2009.
- [03] That Applicant applies for bail that he is the sole breadwinner of his family with three children.
- [04] Section 19(1) of the Bail Act provides that an accused person must be granted bail by court unless:
- (a) the accused person is unlikely to surrender to court custody and appear in court to answer charges laid;
 - (b) the interest of the accused person will not be served through the granting of bail; or

- (c) granting bail to the accused person would endanger the public interest or make the protection of the community more difficult.
- [05] The Applicant submits that he needs bail in order to look after his family and his health. He is in remand from 06/07/2012.
- [06] Presently the Applicant's children are being looked after by the Social Welfare Department.
- [07] The prosecution is relying on the direct evidence of the victim, her younger sister, her mother and Caution interview Statement of the Applicant.
- [08] The Applicant is charged with Rape under Crimes Decree No: 44 of 2009. Rape is in itself viewed as most serious sexual offence which attract maximum penalty of life imprisonment.
- [09] The witnesses in this case are all related to the Applicant.
- [10] The Applicant is 52 years old and is in remand for this case since 06/07/2012. I consider this is a new circumstance. Further he has a suitable surety.
- [11] Rape is no doubt a serious offences but seriousness of the offence alone cannot form a ground to refuse bail.
- [12] In considering these matters, the court must bear in mind the presumption of innocence.
- [13] There are some new grounds exists in this case. Hence, interest of justice can be served granting bail on strict conditions. I grant bail to the applicant on the following conditions:
1. To secure his own attendance at the High Court by standing in his own recognizance in the sum of \$1000.00 (Non-cash).
 2. To provide two sureties. They must sign a bond of \$1000.00 each. (Non-cash)
 3. Not to approach any prosecution witnesses directly or indirectly or to interfere with.
 4. To surrender his passport if any to court and not to apply for a travel document. The Director of Immigration is informed of the travel ban on the applicant.

5. To report to nearest Police Station on every Sunday between 6am to 6pm.
6. Any breach of these conditions is likely to result in cancellation of his bail.
7. To provide his new address before being released on bail.

[14] 30 days to Appeal.



Kumararatnam

JUDGE

At Suva
16/05/2014