

4. The Respondent objects for bail and points out that there is a strong case against the Applicant and that the Applicant is charged with a serious offence. The Respondent also states that there is a high likelihood of the Applicant interfering with the State witnesses.
5. Given that the presumption in favour of granting of bail is displaced, the Applicant has not demonstrated compelling reasons to justify the granting of bail. On the contrary, the Applicant is charged with a serious offence where the applicable tariff is 10 to 16 years imprisonment and according to the Respondent there is a strong case against the Applicant. The Complainant is 9 years old and the Applicant is her stepfather.
6. In the bail ruling dated 30th June 2010 in *Naisua v State* (HAM 090 of 2010) Nawana J stated thus;

"[18] It is appropriate in this context to refer to the observations made by Justice Goundar in the case of 'The State vs AV (Criminal Case No 192/2008), Justice Goundar held:

"Children below the age of 14 years are the most vulnerable victims, and therefore, the need for protection of law is greater..... By ratifying the convention, the State is obliged to take all appropriate legislative measures to protect children of this country from all forms of physical or mental violence, injury or abuse or exploitation or sexual abuse. The Convention also allows for judicial involvement to carry out the protective measures for children".

[19] I am of the view that this observation of Justice Goundar in conjunction with other factors in the above paragraph constitute elements of 'public interest' and the necessity 'for protection of the community' as stated in Section 19(2)(c) of the Act. In the result, I hold that the State has succeeded in satisfying court to form its opinion as to the likelihood of the accused interfering with the evidence and witnesses under the section 19(2)(c) read with Section 18(1). The presence of such likelihood would have the inefficacy of affecting the administration of justice, which in my opinion, is capable of rebutting the presumption in Section 3(3) in favour of granting bail to the accused. ..."

7. The Complainant in this case comes under the most vulnerable category of victims as highlighted by Goundar J in *State v A.V.* (supra).
8. In the light of all the above circumstances, this application for bail pending trial is refused.



A handwritten signature in black ink, appearing to read "Vinsent S. Perera".

Vinsent S. Perera
JUDGE

Solicitor for the State : Office of the Director of Public Prosecution, Suva.
Solicitors for the Accused : Legal Aid Commission, Suva.