

IN THE HIGH COURT OF FIJI

AT SUVA

[MISCELLANEOUS JURISDICTION]

CRIMINAL CASE NO: HAM. 097 of 2016

(HAC 132 of 2016)

INOKE LAGICERE

V

STATE

Counsel : Ms. T. Kean for Applicant
Ms. S. Serukai for Respondent

Date of Ruling : 23rd June 2016

BAIL RULING

1. This is an application for bail pending trial. The applicant is charged with one count of rape contrary to section 207 of the Crimes Decree 2009 ("Crimes Decree"). This offence carries a maximum sentence of life imprisonment.
2. The complainant in the substantive case is 14 years old. The applicant admits that the relationship between him and the complainant is a domestic relationship according to the Domestic Violence Decree 2009 ("Domestic Violence Decree").
3. Therefore, in terms of section 3(4)(c) of the Bail Act 2002 as amended by the Domestic Violence Decree ("Bail Act"), the presumption in favour of bail provided under section 3(3) of the Bail Act is displaced in this case.

4. However, even in a case where an applicant is charged with a domestic violence offence, unless the court is satisfied that the safety of the complainant is likely to be put at risk if bail is granted; bail must be granted. [*Ganita v State* HAM 060/2016; 03 May 2016]
5. According to the applicant's affidavit dated 17/06/16, the applicant's father and the complainant's father are cousins. The applicant submits that he intend to live in Colo-i-Suva, Tacirua and work in a farm if he is granted bail.
6. The respondent submits that the presumption in favour of bail is displaced and objects for bail stating that the applicant is charged with a serious offence and that there is a strong case for the prosecution. According to the affidavit of CPL 4106 Waisea Dirabici filed on 21/06/16 in case No. HAM 87 of 2016, the complainant in the relevant substantive case now resides in a girls home in Suva.
7. Considering all the facts submitted by both parties, I am not convinced that the safety of the complainant will be put at risk if bail is granted to the accused taking into account the conditions that could be applied.
8. Therefore, the applicant is granted bail subject to the following conditions;

The Applicant should;

- a) sign a personal surety bond of \$1000;
- b) appear in case No. HAC 132of 2016 on every court date;
- c) not commit any offence whilst on bail;
- d) reside at a an address other than the residential address of the complainant;
- e) provide clear details of his residential address and reside at that address until the conclusion of the case, HAC 132of 2016;
- f) not change the aforementioned address provided to court without the leave of the court;
- g) not assault, threaten or harass the complainant;
- h) not interfere with prosecution witnesses either directly or indirectly;
- i) surrender all travel documents to court or if he does not have any travel document, then should not apply for any travel document and not leave the jurisdiction until the conclusion of the case HAC 132of 2016;

- j) report to the nearest police station every Monday between 6.00am and 6.00pm, commencing from 27/06/16;
- k) remain at home curfewed daily between the hours of 7.30pm to 5.30am;
- l) not enter or remain on any land or building occupied by the complainant; and
- m) provide two sureties acceptable to court and each surety to sign a bond of \$1000 to ensure that the Applicant complies with his bail undertaking.



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

Vinsent S. Perera
JUDGE

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