

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL MISCELLANEOUS JURISDICTION

CRIMINAL MISCELLANEOUS CASE NO: HAM 119 OF 2016

BETWEEN : **RAM CHARAN MAHARAJ**

Applicant

AND : **STATE**

Respondent

Counsel : **Ms. S. Nasedra for Applicant**
Ms. L. Latu for Respondent

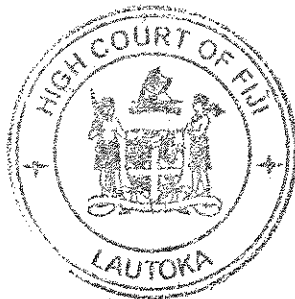
Date of Hearing : **19th July, 2016**

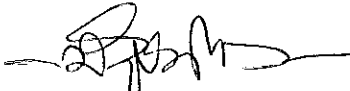
Date of Ruling : **26th July, 2016**

BAIL RULING

1. The Applicant applies for bail pending trial. Applicant is charged with one Count of Rape contrary to Section 207 Crimes Decree 44 of 2009.
2. The State has filed its response supported by an affidavit of WDC Miriama, the Investigating Officer of the Applicant's main case. The State is objecting to bail on the grounds stated in the affidavit.
3. The Applicant was granted bail by this Court with stringent bail conditions. Whilst on bail, he failed to appear in Court on 23rd August, 2013. Since then he was absconding and evading arrest for nearly three years in violation of bail conditions imposed by this Court.
4. Respondent vehemently objects to Applicant's bail application. Warrant had been executed with great difficulty as the Applicant had been hiding in Malele, Tavuva using the name Balavindar Sing. When a police team approached him, he had run away. He was arrested on 25th April, 2016 after a pursuit and produced in Court on the following day.

5. The presumption in favour of granting of bail in Section 3 (3) of the Bail Act is displaced when an accused had violated an existing bail condition.
6. Applicant has failed to give any valid reason for his absence in Court when he was produced before this Court.
7. According to Section 17 (2) of the Bail Act, the primary consideration in deciding whether to grant bail is the likelihood of the Accused person appearing in Court to answer the charge laid against him. The State is concerned that if the Applicant is released on bail, it is highly likely that the Applicant will not appear in Court to face his trial. Respondent's concern is well founded given Applicant's previous bail violation.
8. Applicant is a father of six children and the sole bread winner of his family. Having considered his personal circumstances, Court has decided to give priority to his case and the trial date is already fixed in August, 2016.
9. I am of the view that imposition of strict bail conditions is not sufficient to secure the attendance of the accused in Court.
10. For the reasons given, application for bail pending trial is refused.
11. 28 days to appeal to the Court of Appeal.




Aruna Aluthge
Judge

At Lautoka
26th July, 2016

Solicitors: Legal Aid Commission for Applicant
Office of the Director of Public Prosecution for the Respondent