IN THE HIGH COURT OF FIJI

AT SUVA

MISCELLANEOUS JURISDICTION

MISCELLANEOUS CASE NO. HAM 295 OF 2018

BETWEEN

SOVITA TURAGABECI RAWALAI

APPLICANT

AND

THE STATE

RESPONDENT

Counsels

:

Mr. T. Ravumiwa for Applicant

Mr. Y. Prasad for Respondent

Hearing

06th December, 2018

Ruling

06th December, 2018

RULING ON BAIL

- Every accused person has a right to trial unless the interest of justice requires otherwise. The
 test for bail is whether or not, he will turn up on the trial date to take his trial. The court must
 consider the factors in Section 19 of the Bail Act 2002 before it makes a decision on the above.
- 2. The prosecution said they have a strong case. They rely on the complainant's direct evidence. They said, the accused allegedly punched and strangled her, before he raped her. They said, by assaulting her prior to the offence, he knew she was not consenting to sex at the time. Prosecution said, the medical reports and the accused's alleged partial confession to support the above. If found guilty after trial, accused is looking at 12 to 16 years imprisonment.

- 3. He will be tried late next year, or early 2020. The court can hold him in custody 2 years prior to trial. If found guilty, this will be deducted from his final sentence. He is represented by experience counsel and he can visit him in custody to prepare his defence. He is not incapacitated and there appears to be no reason for him to be at liberty for other lawful reasons.
- 4. The allegations against the accused are very serious. He allegedly assaulted and raped the complainant behind a house. They are related. Prosecution also said, accused may interfere with witness. In my view, although the accused is presumed innocent until proven guilty beyond reasonable doubt, he should be remanded in custody in the public interest and to protect society.
- 5. Because of the above reasons, bail is denied.

6. Remanded in custody until further orders of court.

SUVA SUVA

Salesi Temo
JUDGE

Solicitor for Applicant

Legal Aid Commission, Suva

Solicitor for Respondent

Office of the Director of Public Prosecution, Suva