

IN THE HIGH COURT OF FIJI AT SUVA

In the matter of an application for bail
pending trial.

[MISCELLANEOUS JURISDICTION]

SAILOSI NAIVALURUA

Applicant

CASE NO: HAM. 95 of 2020
[HAC 124 /2020]

Vs.

STATE

Respondent

Counsel : Ms. T. Kean for the Applicant
Ms. S. Tivao for the Respondent

Hearing on : 03 July 2020

Ruling on : 17 July 2020


RULING

1. This is an application for bail pending trial. The applicant is charged with one count of murder under section 237 of the Crimes Act 2009. The offence of murder carries mandatory life imprisonment.
2. Respondent objects to bail stating *inter alia* that;
 - a) The applicant is alleged to have committed a violent crime where the applicant had struck the deceased four times with a cane knife;

- b) The prosecution witnesses are known to the applicant and therefore there is a risk of interference; and
 - c) There is strong evidence against the applicant.
3. The applicant is 21 years old. The deceased and the applicant had been workmates and it is alleged that the applicant had attacked the deceased after an argument over the applicant's mobile phone which had gone missing.
 4. It is submitted on behalf of the respondent that the deceased's left hand was severed during the attack and from what I could gather during the hearing of this application the deceased had bled to death due to the injuries caused by the cane knife, where the injury to the hand had been the most severe injury.
 5. The counsel for the respondent being mindful of her duty as a prosecutor to be fair, independent and objective, also submitted that the applicant had voluntarily presented himself at the police station after the alleged incident.
 6. The incident involving this case appear to be a violent one as stressed on behalf of the respondent. However, the applicant's criminal responsibility will be determined at the trial.
 7. As far as this application for bail is concerned, there is a presumption in the applicant's favour for him to be granted bail.
 8. Having considered all the material before me, I am not satisfied that the said presumption is rebutted in this case.

9. The applicant by presenting himself voluntarily at the police station has demonstrated that he is not a flight risk.
10. The concern raised by the counsel for the respondent on possible interference of the witnesses could be addressed by imposing a relevant condition.
11. In the circumstances, I have decided to grant bail to the applicant on the following conditions;
- The applicant should;
- a) sign a personal surety bond of \$1000;
 - b) appear in case No. HAC 124 of 2020 on every court date;
 - c) not commit any offence whilst on bail;
 - d) provide clear details of his residential address and reside at that address until the conclusion of the case, HAC 124 of 2020;
 - e) not change the aforementioned address provided to court without the leave of the court;
 - f) not interfere with prosecution witnesses either directly or indirectly;
 - g) not leave Viti Levu until the conclusion of the case HAC 124 of 2020;
 - h) report to Nasinu Police Station on every other Monday between 6.00am and 6.00pm, commencing from 20/07/2020;
 - i) provide two suitable sureties and each surety to sign a bond of \$1000 to ensure that the applicant complies with his bail undertaking.
12. The applicant is hereby warned that the trial in HAC 124 of 2020 may take place in his absence if he fails to appear in court for the said case as directed.




Vinsent S. Perera
JUDGE

Solicitors;

Legal Aid Commission for the Applicant
Office of the Director of Public Prosecution for the State.