

IN THE HIGH COURT OF FIJI

AT SUVA

[CIVIL JURISDICTION]

CIVIL MISC NO. HBM 082 OF 2025

BETWEEN : JOSHUA AZIZ RAHMAN

AND : THE MINISTER FOR JUSTICE
THE ATTORNEY GENERAL OF FIJI

Date of Decision : 24 June 2025

DECISION

(Summary Dismissal)

- [1] On 12 October 2021, the Applicant was sentenced to 20 years' imprisonment, with a non-parole period of 14 years, for Possession of Illicit Drugs (*State v Rahman* [2021] FJHC 288; HAC063.2019 (12 October 2021)).
- [2] He appealed both his conviction and sentence to the Court of Appeal. The State cross-appealed the sentence.
- [3] On 12 February 2024, the Court of Appeal granted the Applicant leave to appeal against both the conviction and sentence (*Rahman v State* [2024] FJCA 20; AAU66.2021 (12 February 2024)). The State was also granted leave to cross-appeal the sentence.
- [4] While the appeals remain pending, the Applicant filed a constitutional redress application, alleging that he was tried after an unreasonable delay while in custody on remand, after being denied bail, in breach of his constitutional right to be tried within a reasonable time. He further claimed that the delay in hearing the appeal continued to infringe that right.
- [5] It is noted that, apart from seeking bail, the Applicant did not seek any other relief from the High Court, such as a stay of prosecution on the ground of unreasonable delay. When sentencing the Applicant, the Court acknowledged a delay of 2 years

and 8 months prior to trial and applied a three-year reduction in the sentence to reflect both the remand period and the delay.

[6] The Applicant has not exhausted his appellate remedies for the alleged violation of his right to be tried within a reasonable time. With respect to the delay in the appeal proceedings, he has the option of seeking an expedited hearing under the Court of Appeal Rules, but has not done so to date.

[7] As Fernando J said in *Qurai v Director of Public Prosecutions* [2016] FJHC 228; HBM40.2016 (7 April 2016) at [38]:

It would be improper for this Court to make any directions regarding the conduct of the case and the fixing of any dates as this may compromise the independence of the Court before which the matter currently is. The presiding Judge in Court of Appeal will be in a best position to weigh all the factors I have identified to consider when the matter should be listed for hearing.

[8] Accordingly, it is not appropriate for the Applicant to seek constitutional redress from the High Court while his appeal is pending, particularly when the relief sought could properly be granted by the Court of Appeal. This application constitutes an abuse of process.

[9] Pursuant to the inherent jurisdiction of this Court, and with reference to *Tokoniyaroi v Commissioner of Police* [2023] FJSC 24; CBV0017.2019 (30 June 2023), the application is summarily dismissed as frivolous and vexatious.

[10] Any future in-person application for constitutional redress made by the Applicant shall not be accepted without the prior sanction of a High Court judge.




.....
Hon. Mr Justice Daniel Goundar

Solicitors:

Applicant in Person, Fiji Corrections Department, Suva.