

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**MISCELLANEOUS JURISDICTION**

**Criminal Misc. Case No. HAM 062 of 2025**

**BETWEEN** : AIYAZ SAYED-KHAIYUM  
*Applicant*

**AND** : THE STATE  
*Respondent*

**Counsels** : Mr. Devanesh Sharma with Ms. Gul Fatima for Applicant  
: Ms. Nancy Tikoisuva for Respondent

**Date of Hearing** : 4<sup>th</sup> August 2025

**Date of Ruling** : 15<sup>th</sup> August 2025

**RULING**

1. This case concerned Suva High Court Criminal Case No. HAC 165 of 2025. Mr. Aiyaz Sayed-Khaiyum (Accused No. 1) is facing one count of **Abuse of Office**, contrary to section 139 of the Crimes Act 2009 (Count No. 1), and Mr. Mohammed Saneem (Accused No. 2) is facing **Receiving a Corrupt Benefit**, contrary to section 137 of the Crimes Act 2009 (Count No. 2).
2. Both accused are presently on bail that was granted in the Magistrate Court, and the same bail had been continued in the High Court.

3. The case appeared to have lingered on in the Magistrate Court for approximately two years, and it now had been transferred to the High Court for trial. The case has now been set for trial from 15 September 2025 to 3 October 2025.
4. Although both accuseds, as a matter of law, are presumed innocent until proved guilty beyond reasonable doubt, the case had been given a hearing date in the High Court because of section 15 (3) of the Constitution which reads as follows:

*“...Every person charged with an offence... has the right to have the case determined within a reasonable time...”*

In the High Court of the Republic of Fiji, as a matter of Case Management policy, and in line with the mandate given by section 15 (3) of the 2013 Constitution, criminal cases had to be disposed off, according to law, within a space of 2 years, that is, from first call to disposition of the case via an acquittal and/or sentence according to law.

5. Because this case was lingering in the Magistrate Court for approximately 2 years, the case had to be heard as soon as possible. In the Court’s view, the 2 years already had given the parties enough time to prepare for the case, and sought out the pre-trial issues, before the trial.
6. It was in the above context, the court will rule on Accused No. 1’s bail variation application in Criminal Miscellaneous Case No. 62 of 2025, High Court, Suva. The accused had filed a notice of motion seeking a bail variation in High Court Criminal Cases No. HAC 165 of 2025, HAC 166 of 2025 and what appeared to be Magistrate Court Criminal Case No. 1137 of 2024.
7. As a matter of High Court Criminal Division case management policy, the trial judge assigned a case, deals with all pre-trial issues, including bail. Therefore, in this case, I will be dealing with High Court Criminal Case No. 165 of 2025 only. My decision on this matter may be persuasive or otherwise in the other cases, but that is matter for the other trial Judges or trial Magistrates.

8. The accuseds' notice of motion were supported by various affidavits, including his own and his brother's affidavits. I have read and carefully analysed all the affidavits, and the papers filed in support thereof.
9. In a nutshell, the accused was asking for permission to go to Singapore for further medical tests and investigations regarding the allegations that he was suffering a stroke and had serious heart problems. His counsel submitted that their request must be granted by the Court, otherwise the Accused's life may be seriously threatened, leading to a possibility that he may lose his life.
10. The State appear to oppose the defence's above submission saying there was no evidence that the accused had suffered a stroke or that he had a life-threatening heart complication or disease. The State appear to be saying that the accused was healthy looking, and in their analysis of the various medical reports submitted, there was no credible evidence to say he had suffered a stroke or had serious heart problems. The State also appear to be saying that the application was merely an attempt by the accused to avoid the High Court trial, which was four (4) weeks away.
11. If the accused was, in fact, seriously sick, I would be the first one to grant him permission to go overseas for medical investigation and medical treatment.
12. However, in the nature of our work, as judges, we are obliged to look at the facts, and the law, without fear, favour or ill-will. The facts and the law will determine where our decision will go.
13. Given the nature of this bail variation application, the medical evidence was extremely important and crucial in pointing to the judges where the decision should go. I must say that in the 31 years I have spent on the bench, 15 years as a trial Magistrate and 16 years as a trial judge in the High Court and after hearing numerous bail applications, the quality of medical reports and, or certificates submitted by doctors, leave a lot to be desired.

14. As a matter of fact, it's not the doctor's fault. Doctors are taught to describe their reports in medical terms, which unfortunately only they understand and not the judges. In the courtroom, it is essential and I would say imperative for the doctors to describe their reports in ways that judges could understand. In the hospital, the doctors decide who lives or who dies, given their knowledge of the medical world. In the courtroom, the trial Magistrate and trial Judge decide who gets bail or otherwise – depending on how well they understand the medical reports and/or certificates.
15. In this case, I had carefully examined all the medical reports and certificates submitted by the parties. Taken as a whole, the accused's medical reports appear to say that he ought to go overseas for further test to determine the extent and seriousness of his alleged medical problems. The reports were not clear cut on whether or not he had suffered a stroke or whether or not he is suffering life threatening heart problems. The informations submitted in the reports were not broken down by the doctors to assist the trial judge decide on whether or not the submitted claims of stroke and heart problems, were in fact, factually verified. Put that against the medical reports submitted by the doctors called by the State. The doctors called by the State appear to be saying that the accused could be examined in Fiji and it appeared that he was not suffering from any serious stroke or heart disease.
16. The court had taken judicial notice of the success of the Pacific Specialist Healthcare Hospital in Nadi, near the Nadi International Airport and opposite the Tokatoka Hotel in Nadi. The Court had taken judicial notice of the successful heart surgeries that Doctor Sanjeev Khulbey and his team had performed at the above Hospital. Had a report obtained from the above Hospital supporting the Accused's case, I would be prepared to grant his application.

17. On the medical evidence submitted so far, I am not persuaded to accept the accused's application for bail variation. In my view, subject to concrete medical evidence, the accused's medical problems can be investigated and resolved in Fiji.
18. Given the above, the accused's application for bail variation is denied. He must prepare for trial on 15 September to 3<sup>rd</sup> October 2025. He must remain in Fiji and must appear in Court on the trial date. His bail terms in the Magistrate Court are extended. I order so accordingly.



A handwritten signature in blue ink, appearing to be "Salesi Temo", is written over a faint, larger blue outline of the signature.

Salesi Temo  
Chief Justice

**Solicitor for the Applicant** : R. Patel Lawyers, Suva.  
**Solicitor for the Respondent** : Office of the DPP, Suva

