

IN THE MAGISTRATES' COURT OF FIJI
AT NASINU
CRIMINAL JURISDICTION

Criminal Case No. 1785 of 2019

STATE

v.

JOPE LOLOMA

For the State: Police Constable P. Prasad

For the Defence: In Person

BAIL RULING

1. You are charged with **THEFT** contrary to section 291 (1) of the **CRIMES ACT 2009** in that you "on the 5th day of December 2019 at Nasinu in the Central Division, dishonestly appropriated (stole) 10 x 500 gram Rewa Butter valued at \$9.95 each with the total value of \$99.50, property of *Pacific Energy*, with intent to permanently deprive the said *Pacific Energy* thereof."
2. You were first produced in Court on 17 December 2019. It was revealed that you have several other criminal proceedings afoot against you: *Criminal Case No. 421 of 2019 – Disobedience of Lawful Orders*, *Criminal Case No. 1180 of 2019 – Absconding Bail*, *Criminal Case No. 1552 of 2019 – Theft*, *Criminal Case No. 104 of 2014 – Aggravated Burglary* and *Criminal Case No. 1479 of 2012 – Theft*.
3. You filed a formal bail application on 31 December 2019. In that application you urge the Court to grant you bail *pending trial* and you submit the following reasons for why you ought to be granted bail *pending trial*. You submit that you are presumed innocent of all the offences for which you have been charged. More, you state that you have a one year and 3 month old child who is dependent on you. Your wife is unemployed and you are the sole bread winner for your family and to this end you operate your own food business. Your wife suffers from epilepsy and your family's livelihood, health and well-being is at stake. You also support an elderly father and you have no previous history of escaping from lawful custody.
4. I remind myself that the primary consideration for bail is whether you are likely to turn up to Court if you are released on bail. The presumption in favour of bail applies to you and it is for the State to rebut that presumption if they object to bail. The State relies on the fact that you have criminal matters in Court. The fact that you have pending matters in Court is *not prima facie* proof that you are dangerous and likely to reoffend while on

bail. That way leads to dangerously watering down the presumption in favour of bail. The State will need to satisfy me on the balance of probabilities that you have a history of absconding bail in respect of those other matters, or that there is strong evidence in respect of each case including this one sufficient to permit me to draw the conclusion that it is not in the interests of justice to grant you bail.

5. The State having done neither I must work on the premise that you are presumed innocent in respect of each case currently before the Court. Having no material before me to rebut the presumption in favour in bail, I must inevitably find that you ought to be released on bail.
6. You are released on bail *pending trial* on the following terms and conditions:
 - (i) Bail Bond of \$500.00 *non-cash* which is forfeitable if you breach bail
 - (ii) You are to attend Court each and every time your case is called
 - (iii) You are not to interfere with the State's case against you
 - (iv) You are to reside at Lot 2, Nuqa Place, Valelevu until your trial is concluded. You must not be absent from that address for more than 24 hours without the Court's permission. You are not permitted to change address without the Court's permission.
 - (v) Finally, you are to report to the Valelevu Police Station every Friday between the hours of 5.00am and 9.00pm.
7. You are put on notice that if you breach any of these conditions without reasonable cause, this is a crime and you may be the subject of further criminal charges.
8. You are put on notice that you have a constitutional right to be present throughout these criminal proceedings. If you voluntarily abscond bail *i.e.* make the choice not to be present during these proceedings, you run the risk of the matter going to trial in your absence.
9. **Any party not satisfied with this bail ruling is at liberty to apply for review before another Magistrate or before a Judge of the High Court pursuant to section 30 (1) of the Bail Act 2002 but should bear in mind the proviso at section 30 (7) of the said Act. In addition, any party not satisfied with this bail ruling is at liberty to appeal this decision to the High Court within 28 days.**
10. We will now take your plea and in light of your decision to waive your right to counsel, progress the matter to either sentencing or trial depending on your plea.



Seini K Puamau
RESIDENT MAGISTRATE



Dated at Nasinu this 14th day of January 2020.