



**IN THE SUPREME COURT OF NAURU  
AT YAREN  
[CRIMINAL JURISDICTION]**

**Criminal Case No. 02 of 2023**

**BETWEEN:** THE REPUBLIC

**PROSECUTION**

**KAUWEN ALIKLIK**

**ACCUSED**

**BEFORE:** Keteca ACJ

**Date of Hearing:** 24<sup>th</sup> January 2025

**Date of Ruling:** 27<sup>th</sup> January 2025

**Catchwords:** Review of Bail Decision, Section 31 Bail Act 2018

**Appearances:**

Counsel for the Prosecution: **M. Suifa'asia**

Counsel for the Accused: **S. Hazelman**

**RULING**

**INTRODUCTION**

1. On 30<sup>th</sup> December 2024, the accused made an application for the variation of his bail under Section 22(2)(c) of the Bail Act 2018. He intended to travel to Kosrae to visit his aging grandfather. The age of the grandfather is not stated in the affidavit. He stated that he last met his grandfather when he was 2 years old. Can a 2-year-old remember this?

2. The accused is facing the following charges:  
District Court- Causing Harm to Police Officer- Criminal Case No. 49/2020; and  
Supreme Court- Two Counts of Causing Harm to Police Officer- Criminal case No: 03/23.
3. On 03<sup>rd</sup> January 25, as I was in Fiji, I received and looked at the application via email. I dismissed the application without hearing the parties. The reasons were-“I am not persuaded that visiting a grandfather whom the accused does not know is sufficient reason to allow him to leave our jurisdiction. Furthermore, the accused has no genuine interests or property in Nauru which would ensure that he returns to answer the serious charges laid against him.’
4. On 14<sup>th</sup> January 25, Counsel for the Accused filed another Motion that I review my 03<sup>rd</sup> January 25 decision due to procedural errors. In particular, the accused deposes that the ‘refusal of his application without a hearing undermined my right to procedural fairness and my ability to address the court’s concerns about my proposed travel.’

## **THE APPLICATION**

5. Counsel relies on Section 31(3), (8) of the Bail Act 2018 that I may review any decision I made on bail and that-‘The review shall be by way of a rehearing, and evidence or information given or obtained on the making of the decision may be given or obtained on review.

## **THE EVIDENCE**

6. The Applicant deposes as follows:
  - i. He is 23 years old and is employed as a ‘maintenance boy’ with the Meneng hotel.
  - ii. He also works as a ‘laborer’ for the family business known as- ‘Kansi Aliklik Tree Hoper.’
  - iii. He lives with his parents and eight siblings.
  - iv. He intends to leave Nauru on 31<sup>st</sup> January 25 and return on 15<sup>th</sup> February 2025.
  - v. On his strong ties to Nauru, he relies on the affidavit of Liianne Iwugia and a letter from his supervisor regarding his leave plans.
  - vi. The purpose of his travel ‘remains compassionate, to visit his aging maternal grandfather namely Pabnlin Charlie, whose health is rapidly declining. The trip is being organized by his mother.
  - vii. His cousin Julven Ribauw and Auntie Lianne Iwugia are willing to be his sureties.
  - viii. He undertakes to comply with all the conditions given by this court.
7. Lianne Iwugia deposes as follows:
  - i. She is 42 years old and a member of the Nauru Police Force.
  - ii. The Applicant is her nephew.
  - iii. The Applicant has strong ties to the community. The Applicant does not own assets of his own but has interests in land through his family.
  - iv. She is willing to be a surety for the Applicant.

8. Jason Jose, Maintenance Manager, Menen Hotel, in a letter, confirms that the Applicant is employed at the hotel as a 'maintenance person.' He further states that the Applicant intends to take his leave from 31<sup>st</sup> January 25 to 15<sup>th</sup> February 25.

## THE PROSECUTION

9. Ms Suifa'asia did not file any affidavit for the Republic. From the Bar Table, she submitted the following:
  - i. The Police investigated and have confirmed that the Applicant has a stable job at the Menen Hotel.
  - ii. The Republic is not objecting to the application.

## DISCUSSION

10. Section 17(2) of the Bail Act 2018 provides:  
'The primary consideration in deciding whether to grant bail is the likelihood of the accused person appearing in court to answer the charges laid against him or her.'
11. In *Dabwido v Republic [2024] NRSC 35*; Criminal Case 4 of 2021 (20 November 2024), I ruled that the same consideration applies in dealing with variation of bail applications. I further find that this primary consideration is also applicable in the exercise of 'Power of review' under Section 31 of the same Act.
12. From the evidence, I note that the Applicant does not own any property on Nauru. He deposes that he is employed as a 'maintenance boy' for Meneng hotel and a laborer for the family business. There is no evidence as to the status of the family business and the percentage of his shares in the business, if any.
13. In *Quadina v Republic [2024] NRSC 29*; Criminal Case 13 of 2022 (11 October 2024), I ruled that there is the 'public interest and the protection of the community "factors that the court need to consider. I further found that any possibility of the Applicant absconding will defeat the public interest in ensuring that the Applicant returns to face the serious charges laid against him.
14. The Applicant is facing very serious charges here. They relate to the alleged assault on police officers. The penalties range between 20 years and life imprisonment.
15. I find that there is nothing in the evidence that persuades me that the Applicant, if allowed to travel out of Nauru, he will voluntarily return to attend his trials in the District and Supreme Courts. The proposal that the surety enter into a recognizance for only \$700 is rather minuscule compared to the seriousness of the offence and the risk that the Applicant not returning at all. As I said in the *Quadina v Republic [2024] NRSC 29*; Criminal Case 13 of 2022, the possibility of the Applicant not returning is real.'
16. Considering the totality of this application I am not persuaded that the Applicant, if allowed to travel outside Nauru, will return to answer the serious charges laid against him.

## CONCLUSION

17. The application that the Applicant's bail be varied to allow him to travel to Kosrae on 31st January and return on 15th February is dismissed.
18. This matter is listed for trial from **Monday 8<sup>th</sup> September, 2025 to Friday 12<sup>th</sup> September, 2025.**

Dated this 27<sup>th</sup> day of January, 2025



**Kiniviliame. T. Keteca**  
**Acting Chief Justice**

