

**IN THE HIGH COURT OF SOLOMON ISLANDS**

CRC 449 of 2004

In the matter of:  
bail

An application for

**BETWEEN:****GREGORY LUAVEX***Applicant***AND:****REGINA***Respondent***Honiara: 28 October 2004****Reasons for Decision**

**Brown J.** This bail application is brought by a Bougainvillian, Gregory Luavex who has been charged with 4 counts of murder at the Gizo Hotel on the 12 November 2000 when 4 men were alleged to have been shot to death. He was arrested by a New Zealand Police Officer, (a member of RAMSI) on Tuesday 9 December 2003, after he had spoken to the Senior Sergeant of Police, John David McGrail earlier in November of that year at the markets. On the 9 December, unprompted he said to Snr Sgt McGrail

"You know John, I am the one that killed those 4 men in the Gizo Hotel in 2000."

As a result of that admission and other enquires the Snr Sgt had made, he arrested this applicant at the bar of the Gizo Hotel.

Mr. Averre rightly says the applicant need show "exceptional circumstances" in support of his presumption for bail in murder cases.

He further says 10 months in custody is a relevant factor in bringing the application for the applicant was committed to stand trial on the 1 March 2004.

The court has need to consider these following matters when addressing this application

- a) seriousness of offence – 4 murder charges;
- b) severity of punishment if convicted – 4 life sentences;
- c) likelihood of answering bail –
  - i) viewed in relation to a) & b) above;
  - ii) having regard to the fact that he is a Bougainvillian of Arawa;
- d) Potential for interfering with witness
- e) Presumption in favour – save in murder cases "exceptional circumstances" need be shown.

Mr. Averre says "exceptional circumstances" can be found in the circumstances surrounding the deaths of these 4 men known as Black Sharks, and members of Guadalcanal Revolutionary Army for the applicant was in Gizo at the request of the W.P. Government, Gizo Police & Bougainville Revolutionary Army.

If that be a claim of right to extra-judicial killings, then it may be argued at the trial, but in terms of "exceptional circumstance" having read the manner in which these men were killed, I do not believe what Mr. Averre has argued amounts to exceptional circumstance for the purpose of this application.

The fact that Nov 2000 was as Mr. Averre says, different and difficult in Gizo may be true in one sense, but the lawless behaviour evidenced in these killings does not afford this applicant a ground to plead that as a special circumstance which stands in his favour.

Despite his denials since, the prosecution case is a strong one, with a series of admissions to independent people including Snr Sgt McGrail and eye witness evidence of his involvement in the shootings.

The evidence of David John Ashe is equivocal and while relied upon by the defendant, does not exclude him from the scene of the killing for Ashe was speaking of another place outside when he says this applicant was not with a group he describes. There are, then, no special circumstances in commonly understood terms. I am also mindful of the fact this applicant is not a Solomon Islander and to extradite him from Bougainville were he to abscond would be difficult, in law and even more so in practice if he were to hide.

The seriousness of the offences coupled with the lack of special circumstances means bail need be refused. I note the delay in trial, but that is hardly exceptional in the difficult conditions at this time or I suggest, exceptional in many other local jurisdictions.

**Order:** Bail refused.