

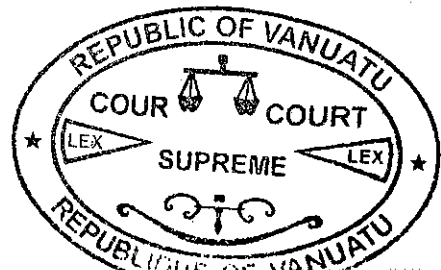
BETWEEN: Public Prosecutor

AND: John Nahum
Defendant

Date: Tuesday, 6 August 2018
By: Justice G.A. Andrée Wiltens
Counsel: Ms M. Taiki for the Public Prosecutor
Ms P. Kalwatman for the Defendant

Judgment

1. Mr Nahum made an application for bail, pending his 2-day trial scheduled for 14 and 17 September 2018.
2. Ms Taiki opposed the application, primarily on the basis that there was a risk of further offending and a risk of interference with prosecution witnesses. Those submissions reflected that the complainant has already written a letter seeking to withdraw her allegations, and the fact that Mr Nahum was only released from jail on 10 March 2017 after serving a 7-year sentence for rape. Ms Taiki rightly pointed out that the offending alleged is serious, especially as it involves a young complainant who is Mr Nahum's step-daughter.
3. Ms Kalwatman principally relied on her written application – Mr Nahum had a suitable address, with his brother and there was no risk of his contacting prosecution witnesses; he was entitled to the presumption of innocence; and the fact that the existing charges no longer includes an allegation of rape means that the time already spent in custody since December 2017 is the equivalent of a sentence of over 12 months – Mr Nshum is in danger of serving his likely sentence before his trial is even heard.
4. On balance, I agree with Ms Taiki. There are risks here of witness interference and also of further offending. They are risks that cannot be satisfactorily eliminated by the imposition of conditions. That, coupled with the fact that the trial is only just over a month away, convinced me that it was not appropriate to grant bail in this instance.
5. Accordingly, bail is declined.



6. Mr Nahum is remanded in custody until his scheduled trial at 9am on 14 September 2018 at Dumba. A Bislama interpreter is required for the trial.

Dated at Port Vila this 6th day of August 2018
BY THE COURT

G.A. Andrée Wiltens
Justice G.A. Andrée Wiltens

