

**IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(CRIMINAL DIVISION)**

CR 1025/24

R

v

TAOIRANGI SOLOMONA

Hearing: 14 March 2025
Counsel: T Scott for the Crown
N George for the Defendant
Oral Judgment: 14 March 2025

**ORAL JUDGMENT OF TOOGOOD J
[BAIL]**

[1] Mr Solomoná appeared before me in chambers this morning and I heard submissions from Ms Scott for the Crown and Mr George for Mr Solomoná on whether he should be granted bail. Mr Solomoná has been in custody for nearly nine months pending his trial, which is unlikely to take place until September of this year. The Chief Justice has previously expressed his concerns about that state of affairs and I share them.

[2] A prior application for bail having been declined because a 17 year-old girl would be residing at the proposed bail address, the Chief Justice indicated that Mr Solomoná could apply again for bail if he could obtain an address “which the Crown accepts is without risk to children.”

[3] I do not understand the Chief Justice to have meant that the decision about bail would be left to the Crown. Rather, the indication was that, if the Crown reported that it remained

opposed to bail at a new bail address because of a continued risk to children, that would be a matter of concern to the Court.

[4] The current proposal is that Mr Solomona should be bailed to the address of his nephew, Mr Kake Ioane and his three sons, aged 27, 19 and 14 years respectively.

[5] Further inquiries by the Police revealed, however, that there are three young children residing next door: a boy aged eight and girls aged ten and five years respectively. Their mother is concerned about the safety of her children if Mr Solomona is bailed to live next door to them.

[6] Mr George was highly critical of the Police for making inquiries of the neighbouring properties, claiming that it was deliberate attempt to find reasons to deny Mr Solomona bail. He submitted that the direction of the Court was confined to the suitability of the bail address given the nature of the occupants, not to the proximity of children on a neighbouring property. Mr George makes the relevant point that the alleged offending is said to have occurred in a domestic setting against a 14 year-old girl who was a relative staying in the same house.

[7] I am satisfied, however, that the Police were entitled to make a broader inquiry beyond the confines of the proposed bail address. The issue raised by the Chief Justice, given the nature of the alleged offending and the background, is about the safety of children generally and not just children occupying the same property as Mr Solomona.

[8] The Crown maintains its opposition to the bail application. Ms Scott submits that if the Court should grant bail it should be subject to the following conditions:

- (a) Not to make contact or interfere with the victim, namely Oceana Solomona, or any other Crown witness;
- (b) Not to leave Rarotonga without leave of the High Court;
- (c) To surrender any passport to the High Court;
- (d) To report to the Police station on Monday, Wednesday and Friday at 6:00 pm;
- (e) Not to be unsupervised with any person under the age of 18 years old.

[9] Ms Scott submits that the Crown has a strong case against the defendant, basing that submission on an apparently cogent statement made by the complainant to the Police. It includes allegations that Mr Solomona began offending against her sexually from the age of 12, while they were in New Zealand, and his offending culminated in the alleged rape when the complainant was 14 years and staying in the same house as Mr Solomona on Aitutaki. I note, however, that there does not appear to be any corroborating evidence, and the Crown's case seems to turn entirely on the credibility of the complainant.

[10] If the complainant's allegations are true, it indicates that Mr Solomona, a man in his 70s, had a dysfunctional interest in a prolonged sexual relationship with a young girl who was available to him. Although it is not difficult to see that the risk of offending might extend from the particular to the general, it is not alleged that Mr Solomona was guilty of an offence which involved a solitary attack on a stranger.

[11] I understand the concerns of the Crown and, in particular, of the neighbour, for the children residing at the neighbouring address. The dwellings are no more than 20 metres apart, with a hedge, trees and other foliage in between.

[12] Mr George submits with some force that, while Mr Solomona has been able to find a proposed bail address where there are no vulnerable children present, and which would otherwise be acceptable, it would be very difficult for him to find a suitable bail address where there are not young children in the neighbourhood

[13] I am fully cognisant of the Crown's concerns, and I understand the apprehension of the neighbouring family, but the Court is required to take a principled approach to the exercise of its discretion to grant or refuse bail. That includes paying regard to Article 65F of the Constitution which requires that bail should be allowed to all defendants unless there is just cause for denying bail. The Court must have regard also to the presumption of innocence. Mr Solomona has no previous convictions.

[14] I took time to consider what I regarded as a difficult decision, balancing the interests of justice and fairness for Mr Solomona and the need to mitigate any risk of his offending while on bail pending his trial. I informed counsel that I was inclined to grant bail on the conditions proposed by the Crown but with two further conditions which, in my judgment, would provide a reasonable balance between Mr Solomona being permitted to await his trial out of prison,

and mitigating the risk of offending, having regard to the proximity of young girls in the neighbouring property.

[15] I invited Mr George and Ms Scott to consider the proposition that additional conditions should be imposed requiring Mr Solomona to be confined to the dwelling on Mr Ioane's property, and to remain on the property, unless he is accompanied by an adult. They are onerous conditions, but they are manageable and preferable to Mr Solomona remaining in prison until September.

[16] I heard from counsel again after giving them time to consider the proposed additional conditions. Apart from Ms Scott clarifying the distance between the two dwellings, neither counsel raised any practical obstacle to the conditions. It is fair to note, however, that Ms Scott did not depart from the Crown's position that bail should not be granted.

[17] Nevertheless, I am satisfied that bail should be granted on the conditions that Mr Solomona shall:

- (a) Not make contact or interfere with the complainant, namely Oceana Solomona, or any other Crown witness;
- (b) Not leave Rarotonga without leave of the High Court
- (c) Surrender any passport to the High Court or, if he does not currently hold a passport, not apply for one;
- (d) Report to the Police station on Monday, Wednesday and Friday at 6:00 pm;
- (e) Not be unsupervised with any person under the age of 18 years old;
- (f) Reside at the residence of Mr Kake Ioane in Nikao;
- (g) Not be outside the dwelling of Mr Ioane's property unless he is accompanied by an adult; and
- (h) Not leave Mr Ioane's property at any time or for any purpose unless he is accompanied by an adult.

[18] I order accordingly.

[19] If the bail conditions become too onerous for Mr Solomona in practice, it is open to him to provide evidence to that effect and apply for a variation.

A handwritten signature in blue ink, appearing to read 'C H Toogood J', is centered within a light blue rectangular box.

C H Toogood J