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IN THE FIJI COURT OF APPEAL

CRIMINAL JURISDICTION

CRIMINAL APPEAL NO.7 OF 1989

(IN CHAMBERS)

Between:

RAM PRATAP

Applicant

- and -

STATE

Respondent

Mr. Sohan Singh for the Appellant

Ms. Aruna Prasad for the Respondent.

APPLICATION FOR BAIL PENDING APPEAL

DECISION

This is an application for bail pending appeal. The Appellant was sentenced on 9th May 1989 by the High Court to 3 years imprisonment for manslaughter on a plea of guilty. He filed his ground of appeal against severity of sentence on 29th May 1989.

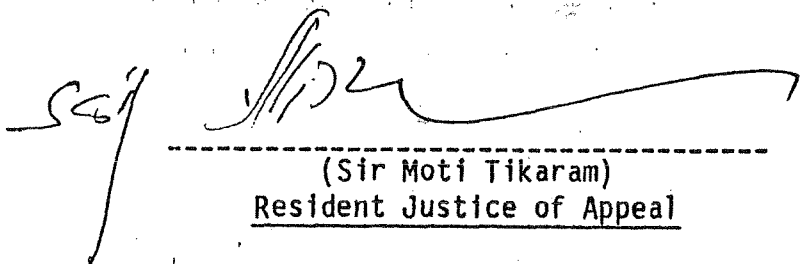
The grounds on which bail is sought are as follows:-

- "(a) that I have every prospect of succeeding in my appeal having regard to grounds of appeal contained in my Notice of Appeal filed herein on the 29th of May 1989.
- (b) that it is likely that there would be considerable delay in preparing the trial record and consequently it is highly probable that my appeal may not be listed for hearing during the August 1989 Sessions of this Honourable Court. If such delay occurs, a grave injustice would be caused to me."

It is the applicant's contention that the sentence is not in conformity with sentencing trend in similar cases. Counsel for the Appellant Mr. Sohan Singh cited a number of cases in support of the argument and submitted that the prospect of succeeding in appeal was very good.

Ms. Prasad for the D.P.P. contended that there are no exceptional circumstances warranting the grant of bail during the pendency of the appeal. In support of her argument she cited the judgment of the Fiji Court of Appeal in Apisai Vuniyayawa Tora & Ors. v. R. in Criminal Appeals Nos. 3 and 4.

Without in any way commenting on the merits of the appeal I am of the opinion that whilst grant of bail cannot be justified a reasonable case has been made out that hearing of this appeal should be given some priority. I have been advised by the Registry that the appeal record will be ready well before the commencement of the next sitting of the Fiji Court of Appeal. Consequently I refuse the application for bail but direct that this appeal be listed for hearing during the first week of the next session of the Fiji Court of Appeal which commences on 8th August, 1989.



(Sir Moti Tikaram)
Resident Justice of Appeal

Suva, 22 June 1989.