

IN THE COURT OF APPEAL, FIJI ISLANDS

CRIMINAL APPEAL NO. AAU 0018/2004S

Between:

LASARUSA RAKULA

Appellant

and

THE STATE

Respondent

Appellant in person  
Ms. A. Prasad for the Respondent

DECISION

This is an application for bail pending appeal by a convicted person. Section 3 (4) (b) of the Bail Act (26/02) applies. The presumption in favour of a grant of bail is therefore displaced.

On 19 May 2003 the Applicant was convicted by the Lautoka Magistrates' Court of the very serious offence of robbery with violence. The Applicant, together with several others, robbed the Westpac bank at Lautoka. The robbers were armed with cane knives and bottles.

The Applicant appealed against his conviction and a full hearing of the appeal took place at the Lautoka High Court on 23 February 2004. The appeal against conviction was dismissed (a copy of the judgment is on file) but the appeal against sentence was partially allowed and the sentence of imprisonment imposed on the Applicant was reduced to 5 years.

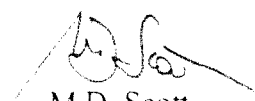
The Applicant has brought a second appeal against his conviction to this Court and, as pointed out by Ms. Prasad, Section 22 (1) of the Court of Appeal Act (Cap 12) provides that such an appeal may only be based on questions of law.

I have perused the grounds of appeal presented by the Applicant and agree with Ms. Prasad that it appears that the chances of success for the appeal are small. The appeal, which must be heard by the full Court, can be heard in the November sessions, just five months away.

In his written grounds filed in support of this application and in his oral submissions the Applicant said that he was assaulted prior to his conviction by the Lautoka Magistrates' Court. He told me that he had complained about this assault to the Fiji Human Rights Commission. He states that he still feeling unwell and is suffering from stress as a result of his incarceration. In my view those are not grounds for granting bail pending appeal.

In all the circumstances of the case including the facts and matters set out in section 3 (4) (b) of the Bail Act, I am not satisfied that the Applicant has made out a case for bail to be granted to him pending appeal.

The application is accordingly dismissed.

  
M.D. Scott  
Justice of Appeal

18 June 2004