

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE HIGH COURT OF FIJI

CRIMINAL APPEAL AAU 1 of 2012
(High Court HAC 128 of 2007)

BETWEEN : MONIKA ARORA

Appellant

AND : THE STATE

Respondent

Coram : Calanchini P

Counsel : Mr D Sharma for the Appellant
Ms S Puamau for the Respondent

Date of Hearing : 1 April 2016

Date of Ruling : 22 April 2016

RULING

- [1] This is an application for bail pending appeal. The application was made by motion filed on 23 September 2015.
- [2] The Appellant had been tried in the High Court at Suva on one count of money laundering contrary to section 69(2)(a) and (3)(b) of the Proceeds of Crime Act 1997

and one count of corrupt practices contrary to section 376(b) of the Penal Code Cap 17. The assessors had returned unanimous opinions of not guilty in respect of both counts. The learned trial Judge did not agree with the opinions of the assessors and in a judgment delivered on 14 December 2011 convicted the Appellant and sentenced her on 17 February 2012 to a total sentence of imprisonment of 7 years with a non-parole term of 6 years.

[3] The Appellant filed a timely applications for leave to appeal against conviction on 11 January 2012 and against sentence on 6 March 2012. On the same day (6 March 2012) the Appellant applied by motion for bail pending appeal.

[4] In a written ruling delivered on 16 October 2012 a judge of this Court refused the application for bail pending appeal on the basis that the appellant had failed to satisfy the requirement of establishing exceptional circumstances under section 17(3) of the Bail Act 2002. There was no order made on the question of leave to appeal.

[5] The application for leave did not come before a judge until 21 May 2014. In a written ruling delivered on 2 June 2014 leave to appeal against conviction and sentence was granted.

[6] The present application for bail pending appeal is a second application and must necessarily be regarded, therefore, as a renewed application for bail pending appeal under section 35(3) of the Court of Appeal Act Cap 12 (the Act). As a result this renewed application must be made before the Court of Appeal pursuant, again, to section 35(3) of the Act. Section 35(3) provides that:

"If the judge [of the Court of Appeal] refuses an application on the part of the appellant to exercise a power under subsection (1) [which includes the power to admit an appellant to bail] in the appellant's favour, the appellant may have the application determined by the Court as duly constituted for the hearing and determining of appeals under this Act."

[7] It follows that a judge of the Court has no jurisdiction to hear a renewed application for bail pending appeal.

[8] On 1 April 2016 the Appellant was granted an enlargement of time of 28 days to file the appeal record for certification by the Registrar. This should be done by 29 April 2016. In the event that the appeal record is certified within a reasonable time thereafter, the appeal is to be listed in the callover to be held on a date to be fixed in July for the allocation of a hearing date in the September session of the Court. In the event that there is delay in the preparation of the record that prevents the appeal being called over, then the application for bail pending appeal is to be listed for callover for a hearing date to be fixed in the September session of the Court. In any event the matter is relisted for mention on 3 June 2016 at 11.30am.

Order:

1. *Application for bail pending appeal is to be listed for hearing in the September session of the Court of Appeal in the event that the appeal record has not been certified by 3 June 2016.*
2. *Listed for mention on 3 June 2016 at 11.30am.*



W. Calanchini

Hon Mr Justice Calanchini
PRESIDENT, COURT OF APPEAL