

IN THE HIGH COURT OF FIJI
AT SUVA
MISCELLANEOUS JURISDICTION
MISCELLANEOUS CASE NO. HAM 179 OF 2013S

VERAMU DIKIDIKILATI

VS

THE STATE

Counsels : Accused in Person
Ms. L. Latu for State
Hearing : 26th February, 2013
Ruling : 5th March, 2013
Written Reasons: 12th April, 2013

WRITTEN REASONS FOR REFUSAL OF BAIL

1. The accused, in Suva High Court Criminal Case No. HAC 246 of 2012S, faced the following information:

Statement of Offence

ACT WITH INTENT TO CAUSE GRIEVOUS HARM:

Contrary to Section 255(a) of the Crimes Decree No. 44 of 2009.

Particulars of Offence

VERAMU DIKIDIKILATI on the 29th day of May, 2012 at Nasinu in the Central Division, unlawfully wounded one Salote Yalimaiwai by stabbing Salote Yalimaiwai with a kitchen knife thereby causing Salote Yalimaiwai grievous harm.

2. He first appeared in the Nasinu Magistrate Court on 1st June, 2012. The case was held down in the Magistrate Court for the purpose of obtaining the accused's psychiatric report from St. Giles Hospital. A copy of the report is now in the court file, and it is dated 6th February, 2013. On 5th October, 2012, the accused applied for bail in the High Court, by filling the standard High Court bail application form. It was first brought before me on 11th February, 2013. The prosecution filed a reply on 7th February, 2013. On 26th February, 2013, I heard the parties on the bail application. On 5th March, 2013, I declined the accused's bail application, and said I would give my reasons later. Below are my reasons.

3. It is well settled that, an accused person is entitled to bail pending trial, unless the interest of justice requires otherwise (section 3(1) of the Bail Act 2002). It is also well settled that, the primary consideration in deciding whether to grant bail is the likelihood of the accused person turning up in court to take his trial on the date arranged (section 17(2) of the Bail Act 2002). It is also well settled that, in order for the court to decide the above issue, it is mandatory for it to consider each of the factors mentioned in section 19 of the Bail Act 2002, that is, the likelihood of the accused surrendering to custody, the interest of the accused and the public interest and protection of the community.

(i) Factor No. 1: Likelihood of Accused Surrendering to Custody:

4. According to the prosecution, the accused is a St. Giles Hospital patient since May 2010. He needs constant medical assistance, according to St. Giles Hospital report, dated 6th February, 2013. However, according to the report, he often failed to take his medication. The present charge against him is a serious one. It carries a maximum sentence of life imprisonment. If found guilty, a custodial sentence is inevitable. According to the prosecution, if he's granted bail, he may abscond. His chances of bail under this head are slim.

(ii) Factor No. 2: The Interest of the Accused's Persons:

5. The accused will be tried later this year or early next year. Alternatively, depending on what is contained in the disclosure documents, he may be sent back to the Magistrate Court, for trial this year. In any event, time spent in custody while on remand, will be deducted from his final sentence if found guilty. He can apply for Legal Aid assistance from inside, and his counsel can visit him in custody, as and when he pleases. His treatment at St. Giles Hospital can better be secured if he's remanded in custody. At the moment, it appears, there is no need for him to be at liberty for other lawful reasons. His chances of bail under this head are slim.

(iii) Factor No. 3: Public Interest and Protection of the Community:

6. The accused's St Giles Hospital report, dated 6th February, 2013, said the accused is "fit to plead". It also said that, although he suffers from a mental illness, this could be managed by the taking of medication. If the medications are not taken, and he reverts to his illness, the report said, he will be a danger to others. In my view, it is in the public interest and the protection of the public that he be remanded in custody until further orders of the court. Under this head, the accused's chances of bail are slim.

Conclusion:

7. Because of the above, I refused the accused's bail application on 5th March, 2013, and the above are my reasons.

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JUDGE

Solicitor for Accused : **In Person**
Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**