

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**MISCELLANEOUS JURISDICTION**

**MISCELLANEOUS CASE NO. HAM 126 OF 2013S**

**TARAJIANI BAVESI**

**VS**

**THE STATE**

**Counsels : Ms. N. Nawasaitoga for Accused  
Mr. J. Niudamu for State**

**Hearing : 26 June, 2013**

**Ruling : 26 June, 2013**

**Written Reasons: 7 March, 2014**

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**WRITTEN REASONS FOR DENIAL OF BAIL**

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1. In Suva High Court Criminal Case No. HAC 200 of 2013S, the accused faced the following information:

**FIRST COUNT**

**Statement of Offence**

**RAPE:** Contrary to Section 207 (1) and (2) (a) of the Crimes Decree No. 44 of 2009.

**Particulars of Offence**

**TARAJIANI BAVESI** on the 13 day of May, 2013 at Wainibuku Cemetery, Nasinu in the Central Division, had carnal knowledge of **V. L.** without her consent.

### **SECOND COUNT**

#### **Statement of Offence**

**RAPE:** Contrary to section 207 (1) and (2) (c) of the Crimes Decree No. 44 of 2009.

#### **Particulars of Offence**

**TARAJIANI BAVESI** on the 13 day of May, 2013 at Wainibuku Cemetery, Nasinu in the Central Division, penetrated the mouth of **V. L.** with his penis, without her consent.

### **THIRD COUNT**

#### **Statement of Offence**

**RAPE:** Contrary to section 207 (1) and (2) (c) of the Crimes Decree No. 44 of 2009.

#### **Particulars of Offence**

**TARAJIANI BAVESI** on the 13 day of May, 2013 at Wainibuku Cemetery, Nasinu in the Central Division, had carnal knowledge of **F. K.** without her consent.

### **FOURTH COUNT**

#### **Statement of Offence**

**RAPE:** Contrary to section 207 (1) and (2) (c) of the Crimes Decree No. 44 of 2009.

#### **Particulars of Offence**

**TARAJIANI BAVESI** on the 13 day of May, 2013 at Wainibuku Cemetery, Nasinu in the Central Division, penetrated the mouth of **F. K.** with his penis, without her consent.

2. He appeared in the Nasinu Magistrate Court on 15 May 2013, and has been remanded in custody since then. On 29 May 2013, he appeared in the Suva High Court. He had been in custody for approximately 9 months.
3. He applied for bail on 29 May 2013. The prosecution replied on 19 and 25 June 2013, with an affidavit and submissions. I heard the parties on 26 June 2013, and I declined the accused's bail application. I said, I would give my reasons later. Below are my reasons.
4. Every accused person has a right to be released on bail, unless the interest of justice requires otherwise. The sole test for granting bail is whether or not the accused person will turn up in court on the date arranged to take his trial. In deciding the above, the court is duty bound to consider the factors contained in section 19 of the Bail Act 2002.

**Factor No. 1: Likelihood of Accused's Surrender to Custody:**

5. The accused is a police officer, aged 39 years, married with 2 children. He resides at 9 miles, Nasinu. According to the prosecution, they have a strong case against him. They rely on the two female complainants' evidence, recent complaint evidence and the medical reports. If found guilty, the accused faced a possible prison sentence of over 10 years imprisonment. Under this head, the accused's chances of bail are slim.

**Factor No. 2: Interest of the Accused's Person:**

6. The trial date has been set from 16 to 20 March 2015, that is, approximately 12 months away. He had been remanded in custody for the last 9 months. However, time spent in custody while on remand will be deducted from the final sentence, if found guilty. There is a new remand facility in Suva, and he can enjoy the facilities. His counsel can visit him in custody to take instructions and

prepare his defence. In my view, there is no need for him to be at liberty for any other lawful purpose. He is not incapacitated. Under this head, the accused's chances of bail are slim.

**Factor No. 3: The Public Interest and Protection of the Community:**

7. The allegations against the accused are very serious. It was alleged that, the accused, while investigating the theft of a mobile phone from a 19 and 20 year old girls, raped them at Nasinu, on 13 May 2013. He was working as a police officer, at the time. Although the accused is presumed innocent until proven guilty beyond reasonable doubt, in a court of law, in my view, it is in the public interest and the protection of the community, that he be remanded in custody, until further orders of the court. Under this head, the accused's chances of bail are slim.

**Conclusion:**

8. Because of the above, I declined the accused's bail application on 26 June 2013.

**Salesi Temo**  
**JUDGE**

**Solicitor for Accused** : **Legal Aid Commission, Suva.**  
**Solicitor for the State** : **Office of the Director of Public Prosecution, Suva.**