

IN THE HIGH COURT OF FIJI

AT LABASA

MISCELLANEOUS JURISDICTION

CRIMINAL MISCELLANEOUS CASE NO: HAM 043 OF 2014 LAB

BETWEEN

SAMUELA BALEIDREKETI

APPLICANT

AND

THE STATE

RESPONDENT

Counsel : Mr. R. Tagivakatini for Applicant  
Mr. S. Vodokisolomone for Respondent

Hearing : 9 December, 2014

Ruling : 9 December, 2014

Written Reasons : 10 December, 2014

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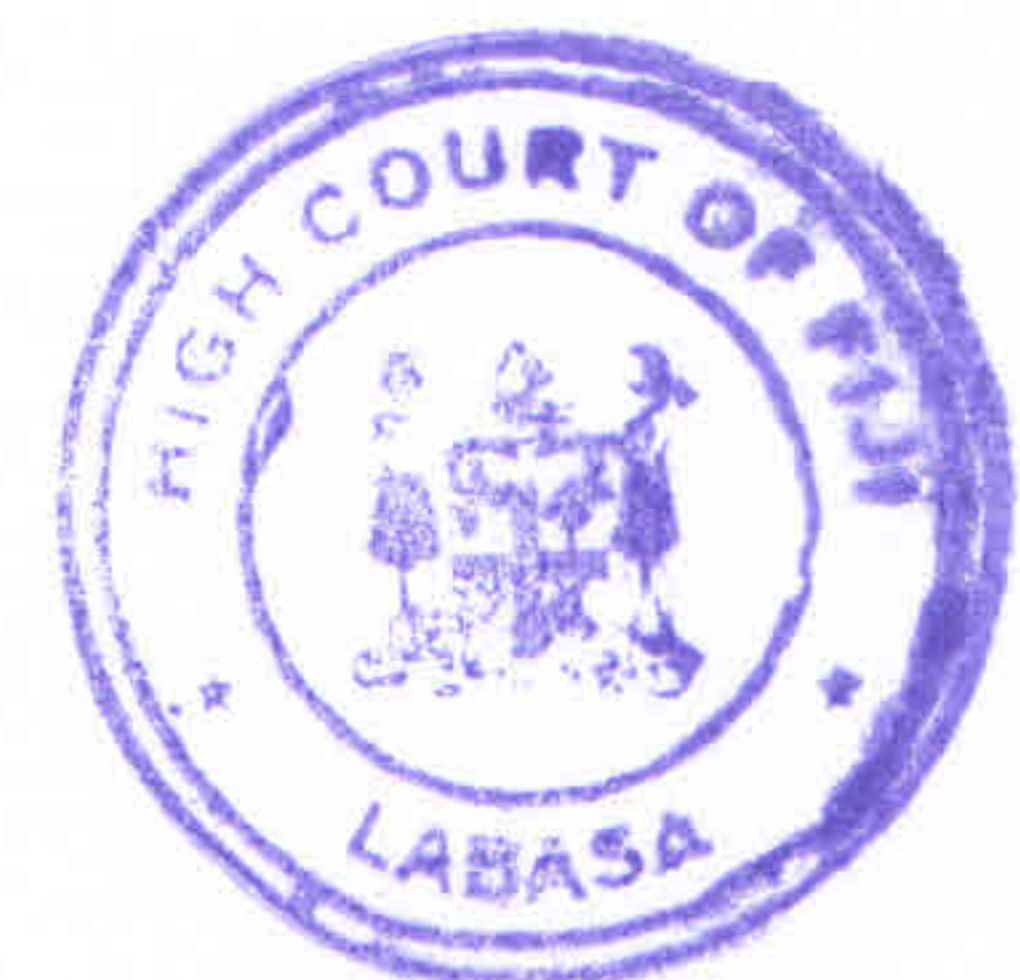
**WRITTEN REASONS FOR DENIAL OF BAIL**

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1. The accused is charged with raping a 13 year old child between 19 and 20 June 2014, at Seaqaqa in the Northern Division, contrary to Section 207 (1) and 2 (a) of the Crimes Decree 2009.
2. I heard his bail application yesterday. I carefully considered the affidavits submitted by the parties. I declined his bail application yesterday, and I said I would give my written reasons today.

3. It is well settled that an accused person is entitled to bail pending trial, unless the interest of justice requires otherwise. The test for the grant of bail is whether or not the accused will turn up in court, on the date arranged for his trial. In determining the above, the court is duty bound to consider the factors mentioned in Section 19 of the Bail Act 2002.
4. The first factor to be considered is the likelihood of the accused surrendering to custody. The accused is 52 years old. The complainant is 13 years old. The accused is the complainant's uncle. According to the prosecution, they have a strong case against the accused. If found guilty after trial, he will face a prison sentence of 10 years and up.
5. The second factor to look at is the accused's interests. The case will be tried from 17 to 19 June 2015 – that is, 6 months away. He had been remanded in custody since 26 June 2014, that is, approximately 6 months ago. However, if found guilty, time spent in remand will be deducted from the final sentence. He has a legal aid lawyer, and his lawyer can visit him in custody to take instructions. He is not incapacitated. It appears there is no justifiable reason for him to be at liberty for other lawful reasons.
6. Finally, we consider the public interest and the protection of the community. The allegation against the accused is certainly very serious. It was alleged that he raped his 13 year old niece. He was 52 years at the time. Sexual attacks on children cannot be tolerated by our society. They must be protected. Although the accused is presumed innocent until proven guilty beyond a reasonable doubt, in my view, it is in the public interest and the protection of the community that he be remanded in custody until trial time.
7. It was because of the above factors that I declined the accused's bail application yesterday.

  
**Salesi Temo**  
**JUDGE**



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