

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**MISCELLANEOUS JURISDICTION**

**CRIMINAL MISCELLANEOUS CASE NO: HAM 152 OF 2015**

**BETWEEN** : 1. **TIMOCI NAGATA**  
2. **PITA CAMAIMOALA VAKATAWA**  
3. **SAIMONI NACOLAWA**

**Applicants**

**AND** : **STATE**

**Respondent**

**Counsel** : **Mr. Aman R. Singh with Mr. Mark Anthony for  
the Applicants**  
**Mr. S. Babitu for the Respondent**

**Date of Hearing** : **26th August 2015**  
**Date of Ruling** : **31st August 2015**

**Bail Ruling**

1. Applicants are jointly charged with one count of Sedition contrary to Section 67(1) (b) and one count of Inciting Communal Antagonism contrary to Section 65(1) (b) of the Crimes Decree No. 44 of 2009.
2. Applicants were granted bail when they were first produced before the learned Magistrate of Lautoka on 10<sup>th</sup> of August 2015.

3. Having considered the Bail Review Application filed by the State pursuant to Section 30(3) of the Bail Act of 2002, this Court reversed the bail determination of the learned Magistrate and revoked bail granted to the Applicant.
4. The Applicants on the 20<sup>th</sup> August, 2015 have filed this bail application seeking bail. This is the first bail application made to this Court.
5. The State is objecting to bail and relying on the same grounds that were stated in the Bail Review Application. The State has filed a fresh affidavit of the Investigating Officer, Loraini Seru and cautioned interview statements of the Applicants in support of its objection.
6. In reviewing the learned Magistrate's bail determination, this Court considered all the evidence and facts placed by both parties and revoked bail on the 13<sup>th</sup> August 2015 on the basis that the learned Magistrate had failed to give due consideration to Section 19 (1) (a) of the Bail Act when he granted bail to the Applicants.
7. Section 19(1) (a) of the Bail Act states that an accused person must be granted bail unless granting bail would endanger the public interest or make the protection of the community more difficult.
8. Relying on media statements of the Commissioner of Police and the Minister of Defence published respectively on 13<sup>th</sup> and 14<sup>th</sup> of August, 2015 in Fiji Times, the Applicants state that there is no security threat to the general public or recovery of fire arms in respect of the charges brought against them. Hence they argue that there is a significant change in circumstances since the revocation of their bail by this Court last week.
9. Courts of law do not take judicial notice of media statements published in newspapers. Such statements are generally issued in tense situations to calm down the general public.

10. The State has taken up the position that keeping the Applicants in remand while investigations are pending is essential to maintain public peace and security.
11. The State further states that timely apprehension and detention of persons involved in unlawful activities have helped to bring the situation under control.
12. This Court is of opinion that there is no change of circumstances since the bail revocation by this Court.
13. Having said that, this Court thought it fit to give different consideration to the bail application filed by the Third Applicant Saimoni Nacolawa in view of his age, medical condition, and his cautioned interview statement.
14. Medical Report of the MBBS Medical Doctor Baladina Kavoa confirms that the 3rd Applicant is suffering from Rheumatoid Arthritis and hypertension. According to the medical report, he gets swelling and pains of joints which can flare in cold conditions. It states that he is in need of constant medical attention and medication.
15. 3rd Applicant has not admitted any of the allegations in his cautioned interview statement.
16. He was a Barrister and Solicitor. His academic and professional background and his community ties will encourage him to obey bail conditions imposed by this Court.
17. For the reasons aforementioned, Court decides to grant bail only to the 3rd Applicant on following bail conditions.

#### 3rd Applicant

- a. to provide two sureties for FJD 10,000.
- b. to provide personal bail bond for FJD 5,000.
- c. not to interfere with witnesses.

- d. not to engage in any unlawful activity.
- e. to report to Lautoka Police Station on every Saturday between 8 a.m. and 4.p.m.
- f. daily curfew to be imposed from 6 p.m. to 6.am.
- g. must confine himself to the Lautoka address.
- h. Passport to be surrendered to the Court.
- i. overseas travel ban to be imposed.

18. Bail Applications of the 1st and 2nd Applicants are refused.



  
**Aruna Aluthge**  
**Judge**

**At Lautoka**

**31st August 2015**

**Solicitors : Mr S. Babitu for the State**  
**Mr Aman R. Singh for Applicants**