

IN THE HIGH COURT OF FIJI
AT LAUTOKA
MISCELLANEOUS JURISDICTION

HAM NO. 108 OF 2015

BETWEEN : NACANIELI BAKATA

Applicant

AND : STATE

Respondent

**Counsel : Applicant in person,
Mr. J. Niudamu for Respondent**

Date of Hearing : 22nd of June, 2015

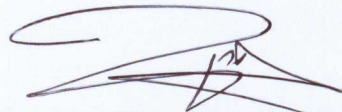
Date of Ruling : 21st of September, 2015

BAIL RULING

1. The Applicant filed this application for bail on the 10th of June 2015. This is the first bail application of the Applicant. This application is found on the following grounds, *inter alia*:
 - I. Need to support his family,
 - II. Presumption of innocent,
 - III. Nine months in remand custody,
2. The Respondent filed their objection in an affidavit of D/Sgt Nagata, stating the grounds of objections. The Respondent's objections are mainly founded on the grounds of the unlikelihood of the Applicant appearing in court, public interest and the protection of the community.
3. Subsequent to the filing of objections, the matter was set down for hearing, where both parties informed the court that they rely on the submissions that have already been filed in. Having considered the bail application, respective submissions and objection filed by the Respondent, I now proceed to pronounce my ruling as follows.

4. The primary consideration of granting of bail is the likelihood of surrendering to custody and appearing in court. Section 18 (1) of the Bail Act has stipulated that the party seeking to rebut the presumption in favor of bail must deal with following three grounds, they are;
- I. The likelihood of the accused person surrendering to custody and appearing in court;
 - II. The interests of the accused person;
 - III. The public interest and the protection of the community.
5. The Respondent submitted that the Applicant is charged with a serious offence and if found guilty, it carries a harsh punishment. Moreover, the Respondent submitted that the Applicant is adversely recorded with 23 previous convictions including convictions for forfeiture of bail bond and resisting arrest. Presently, the Applicant is having about 16 pending criminal cases against him including one matter in High Court of Lautoka. It is further alleged that the Applicant has committed this alleged offence, while he was on bail.
6. In view of the Applicant's adverse record of previous convictions and the pending criminal cases, it appears that there is a high likelihood of the Applicant committing an offence while on bail. Having considered the reasons discussed above, it is my opinion that this application for bail should not be allowed on the ground of public interest and protection of community. I accordingly refuse this application of the Applicant and dismiss the same.




R. D. R. Thushara Rajasinghe
Judge

At Lautoka

21st of September 2015

Solicitors : Applicant in person
Office of the Director of Public Prosecutions