

IN THE HIGH COURT OF FIJI
AT LAUTOKA
MISCELLANEOUS JURISDICTION

Miscellaneous Case No. HAM 23 of 2018

IN THE MATTER OF an
application for bail
pending trial by SAIYAD
FAIZAL ASLAM KHAN

Counsel : Mr. R. Charan for the Applicant
Mr. S. Babitu for the State

Date of Hearing : 16th February 2018
Date of Ruling : 19th February 2018

RULING

- 1.] The applicant faces two charges of Conspiracy to defeat justice and interference with witness contrary to s. 190(a) of the Crimes Act 2009 in the Magistrates Court at Lautoka.
- 2.] Bail was refused by the learned Magistrate on the basis of feared interference with witnesses. He makes fresh application to this Court to be admitted to bail pending trial.
- 3.] The applicant and the two persons he is alleged to have conspired with are all members of a mosque in Lovu, Lautoka. The President of that mosque is Tariq Bahadur who is the alleged victim of the charges where he has been falsely accused of sexually abusing the two complainants. These complainants have now made statements to the Police that their complaints are untrue and that they were made to make these false claims

by inducement of gifts of money and property and the promise of lucrative employment, all offered by the Applicant.

- 4.] The applicant is 42 years old m married with children and is the owner and manager of a small business in Lautoka.
- 5.] I consider this application in full awareness of the principle that an accused is innocent until proved guilty and that the Bail Act provides for a presumption in favour of bail. That presumption can indeed be rebutted by submissions and evidence provided by the State.
- 6.] There are some very disturbing features about this case and the applicant.
- 7.] First and foremost the applicant has brought suspicion upon himself, leading to these charges whilst on bail for another offence, He is charged with one count of rape in this Court. It was a condition of bail for this rape offence, bail granted on 18 March 2016, that he not reoffend while on bail.
- 8.] These very charges are charges of dishonesty and at their heart is the allegation that he has interfered with witnesses, showing that he has no respect for justice. In a statement of a witness annexed to the State's affidavit, there is the alarming claim that the applicant is close to a Magistrate in Lautoka that they exchange texts discussing cases before the judicial officer, and even visit each other. If this claim is true then it would be another avenue to enable the applicant to attempt to defeat justice.
- 9.] Other cases of false accusations and of harassment of witnesses are disclosed in the papers attached to the affidavit.

10.] As with the Magistrate below, I too am fearful that the applicant will contact witnesses and seek to further impede the course of justice.

11.] The presumption in favour of bail is certainly displaced and to prevent any potential interference with witnesses and to protect other persons in the Applicant's sphere of influence the application is refused.



P.K. Madigan
Judge.

At Lautoka

19th February 2018