

IN THE HIGH COURT OF FIJI

AT SUVA

MISCELLANEOUS JURISDICTION

CRIMINAL MISCELLANEOUS CASE NO: HAM 294 OF 2019

Between

ROMULUSE SENILEBA

Applicant

And

STATE

Respondent

Counsel: Applicant in person

M. Chaudhary for Respondent

Date of Ruling: 29 October 2019

BAIL RULING

1. The Applicant has filed this application seeking bail pending trial. He is charged with attempted Murder, contrary to Section 44 and 237 of the Crimes Act. In the substantive matter, it is alleged that the Applicant had assaulted the complainant who is his wife with a cane knife in an attempted to kill her.
2. This is Applicant's third bail application. The Respondent has not filed a response to the bail application and maintains its position that there is no change in circumstances from the previous bail determination.
3. The test for a renewed application for bail is that whether there is a change in circumstances from the last decision on bail or are there circumstances which, although they then existed, were not brought to the attention of the court (*State v Takiveikata* [2008] FJHC 31; *HAM 107.2007* (4 March 2008), Nottingham Justices, *ex parte Davies* [1981] QB 38).
4. The relationship that the Applicant has with the complainant comes under the definition of domestic relationship, making this offence a domestic violence offence. Therefore, the presumption in favour of bail has been displaced.
5. Furthermore, the Applicant has a pending matter in the Magistrate's Court, where he has been charged with one count of Assault Causing Actual Bodily contrary to Section 275 of the Crimes Act and one count of Damaging Property, contrary to Section 369 of the Crimes Act. The Applicant has allegedly committed these offences while he was on bail for another matter which also concerns domestic violence.
6. The Applicant states that he should be released on bail to support his wife and children. There is no evidence that the Applicant had been supporting his family before he was

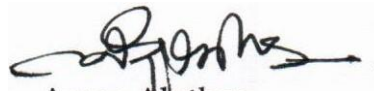
remanded. There is also no evidence to suggest that the lives of his wife and children were at risk without his support.

7. The Applicant also informs that he had suffered a heart attack and was admitted at the CWM Hospital and that he has been advised by the dietitian and the physiotherapist to take precautions to facilitate cardiac rehabilitation. He submits that the condition at the remand centre is not conducive to his medical condition.
8. There is no medical evidence before this court to support the claim of the Applicant.
9. There is a high risk that the Applicant might commit another offence and interfere with the witnesses if he is granted bail. The Applicant has failed to satisfy this court that he has new grounds for bail that were not considered by a court of law.

Order

10. Application for bail is dismissed. The Applicant should not file a renewed application unless he has new grounds for bail that were not considered by a court of law.




Aruna Aluthge
Judge

At Suva

29 October 2019

Solicitors: Applicant in Person

Office of the Director of Public Prosecution for Respondent