

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

MISCELLANEOUS CASE NO. HAM 375 OF 2018

BETWEEN: **ROMULUSE SENILEBA** **APPLICANT**

A N D: **THE STATE** **RESPONDENT**

Counsel: Ms. L. David for the Applicant
 Ms. B. Khantaria for the State

Date of Hearing: 22nd February 2019

Date of Ruling: 06th March 2019

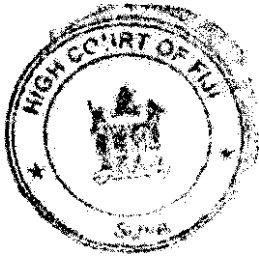
BAIL RULING

1. The Applicant files this notice of motion seeking an order that the Applicant be granted bail pending the trial. The Notice of Motion is being supported by the affidavit of the Applicant, stating the grounds for this application for bail. The Respondent filed an affidavit of DC Munilesh Goundar, stating the objections of the State.
2. The Applicant has been charged with one count of Attempted Murder, contrary to Section 44 and 237 of the Crimes Act. The prosecution alleges that the Applicant had allegedly assaulted the complainant, who is his wife with a cane knife in an attempted to kill her.

3. In pursuant of Section 13 of the Constitution and the Section 3 (1) of the Bail Act, every person has a right to be released on bail unless; it is not in the interest of justice. Section 3 (3) of the Bail Act states that there is a presumption in favour of the granting bail. Moreover, Section 3 (4) of the Bail Act has stated that the presumption in favour of the granting bail is displaced if the person has been charged with a domestic violence offence.
4. The primary consideration in granting bail is the likelihood of the accused person appearing in court. Section 18 (1) of the Bail Act has stipulated that a person making an application against the presumption in favour of bail must deal with the following grounds, that:
 - i) *The likelihood of the accused person surrendering to custody and appearing in Court,*
 - ii) *The interest of the accused person,*
 - iii) *The public interest and the protection of the community,*
5. The relationship that the Applicant has with the Complainant comes under the definition of domestic relationship, making this offence as a domestic violence offence. Therefore, the presumption in favour of bail has been displaced due to the nature of the relationship between the Applicant and the Complainant.
6. 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 complainants of that matter are the wife and daughter of the Applicant. Therefore, the Applicant has allegedly committed this offence, while he was on bail for another matter which is also come under the domestic violence offence, involved with the same complainant.
7. In view of these reasons, I could safely reach to a conclusion that there is a high risk that the Applicant might commit another offence if he is granted bail.

8. Having carefully considered the above discussed reasons, I refuse the application of bail on the ground that there is a likelihood of interfering with the main witness of this matter and the protection of community and the complainant.

9. Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in black ink, appearing to be "R.D.R.T. Rajasinghe".

R.D.R.T. Rajasinghe
Judge

At Suva
06th March 2019

Solicitors
Office of the Legal Aid Commission for the Applicant.
Office of the Director of Public Prosecutions for the Respondent.