

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL MISCELLANEOUS JURISDICTION

CRIMINAL MISCELLANEOUS CASE NO: HAM 67 OF 2019

BETWEEN : **MALELI KOROIVALU**

Applicant

AND : **STATE**

Respondent

Counsel : Mr. K . Romanu for Applicant
Ms. K. Semisi for Respondent

Date of Ruling : 28th May, 2019

BAIL RULING

1. This is an application for bail pending trial.
2. The Applicant is charged with one count of Rape, contrary to Section 207(1) and 2(a) of the Crimes Act and two counts of Sexual Assault contrary to Section 210(1) (a) of the Crimes Act. There is no trial date fixed so far for his substantive matter. The Applicant has been in remand since 18th February, 2019.

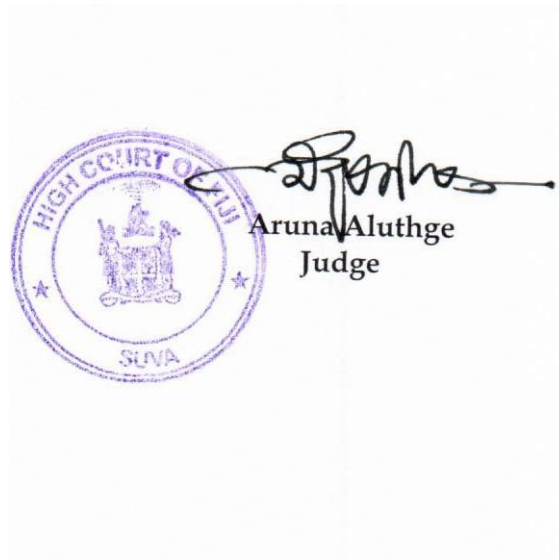
3. The complainant is a child. There is no domestic relationship between the complainant and the accused.
4. The State is objecting to the application on the basis that the Applicant is likely to abscond because he has a pending matter at Nasinu Magistrates Court in which he has a pending bench warrant.
5. The State is also objecting to the proposed sureties on the basis that they are not related to the Applicant and that they have no control over the Applicant.
6. The Applicant has one previous conviction for Drunk and Disorderly but it is not for a similar offence. The case pending in Magistrates Court at Nasinu is for Assault Causing Actual Bodily Harm and is not of similar nature. The Applicant has denied that he had a pending bench warrant issued against him for non-attendance in Nasinu Magistrates Court on 11th January, 2019. To substantiate his claim the Applicant has filed a copy of the record of caution interview which was conducted on 14th February, 2019. It does not however show that the Applicant was in custody as at 11th January, 2019. The non-appearance in Nasinu Magistrates Court on 26 the February, 2019 is justified because it shows that he was in remand custody during that period.
7. The Applicant has introduced new two sureties, his brother-in-law and his elder sister. He is ready to deposit \$5000 in cash. He has given an undertaking to court that he will not interfere directly or indirectly with the witnesses for prosecution.
8. There is no reason why stringent bail conditions would not be sufficient to guard against potential risk of witness interferences. I am of the view that the concerns raised by the Respondent can be addressed by imposing stringent bail conditions to ensure that the witnesses for prosecution are not interfered with and the Applicant abide by bail conditions.

9. For the reasons given, I allow the application for bail on following bail conditions;

The Applicant

- i. to provide cash bail bond of 1000 FJD.
- ii. to provide surety bail bond for 1000 FJD with two sureties acceptable to court.
- iii. not to interfere with the complainant or other witnesses for prosecution.
- vi. to report to the Valelevu Police Station on the last Saturday of the month between 8 am and 4 pm.

10. The Application for bail is allowed.



At Suva

28th May, 2019

Solicitors: MIQ Lawyers for Applicant

Office of the Director of Public Prosecution for the Respondent