

IN THE HIGH COURT OF FIJI
AT LAUTOKA
IN THE WESTERN DIVISION
MISCELLANEOUS JURISDICTION

CRIMINAL MISCELLANEOUS CASE NO.: HAM 135 OF 2019

SAULA LALAGAVESI

v

STATE

Counsel: **Applicant in person**
 Mr Niudamu For the Respondent

Date of Hearing: **10 July 2019**

Date of Ruling: **15 August 2019**

RULING

1. The Applicant made this application for review of bail pending trial on 03 June 2019. He has stated in his application that he has been dissatisfied with the bail ruling delivered on 17 May 2019 by the High Court. The Applicant makes this application pursuant to Section 30 of the Bail Act.

2. As it appears that the Applicant has misconceived the concept of bail review, first I will mention the provisions in the bail Act relating to bail review.

3. Section 30 of the Bail Act provides for review and appeals on bail decisions.

“(1) A Magistrate may review any decision made by a Police Officer in relation to bail.

(2) A Magistrate may review a decision made by another Magistrate, including a reviewing Magistrate, in relation to bail.

(3) The High Court may review any decision made by a Magistrate or by a Police Officer in relation to bail.

(4) The Court of Appeal may review any decision made by the High Court in relation to bail.

(5) The Supreme Court may review any decision of a Magistrate, the High Court or the Court of Appeal, in relation to bail.

(6) A court may not review a decision under this Part if the court is prohibited from making a decision in relation to the grant of bail by any other written law.

(7) A court which has power to review a bail determination, or to hear a fresh application under section 14 (1), may, if not satisfied that there are special facts or circumstances that justify a review, or the making of a fresh application, refuse to hear the review or application.

(8) The power to review a decision under this Part in relation to an accused person may be exercised only at the request of –

(a) the accused person;

(b) the police officer who instituted the proceedings for the offence of which the person is accused;

- (c) the Attorney-General;
- (d) the Director of Public Prosecutions; or
- (e) the victim of the offence.

(9) The power to review a decision under this Part includes the power to confirm, reverse or vary the decision.

(10) The review must be by way of a rehearing, and evidence or information given or obtained on the making of the decision may be given or obtained on review.

(11) The regulations may limit the powers of review conferred by subsections (1), (2) and (3).

4. In light of the above-mentioned provisions in the Bail Act it is very clear that a decision made by the High Court may only be reviewed by the Court of Appeal pursuant to Section 30(4).

5. Justice Rajasinghe stated in **Kumar v State [2018] FJHC 459; HAM79.2018 (7 June 2018)** that;

“According to Section 30 of the Bail Act, the High Court has no jurisdiction to review its own decision in relation to Bail”.

6. In the present case the Applicant has clearly stated that it is an application for review of bail pending trial. The Applicant is charged for three counts of aggravated robbery in case no HAC 149 of 2017. He had been initially granted bail and later the court had revoked bail due to non-appearance. Subsequently the Applicant filed a bail application in the High Court, and it was refused on 17 May 2019 as per the ruling in HAM 69 of 2019. The Applicant has filed the present application in that back ground.

7. Section 14(1) provides for an Accused person to make any number of applications to a court for bail. However, the court may refuse to hear such an application if it is satisfied that the bail application is frivolous or vexatious pursuant to Section 14(3) or if it is not satisfied that there are special facts or circumstances that justifies making a fresh application as per Section 30 (7).
8. However, the Applicant has chosen to file this application for review. In essence, the present application is not tenable as this Court has no jurisdiction to review its own ruling made on 17 May 2019. For the above-mentioned reasons, the application filed by the Applicant on 03 June 2019 for review of bail pending trial is dismissed.




Rangajeeva Wimalasena
Acting Judge

At Lautoka

15th August, 2019

Solicitors: Applicant in person

Office of the Director of Public Prosecution for the Respondent