

- d) *That the learned Magistrate erred in law in not conserving the presumption of innocent against the appellant rights from being prejudiced and denied.*
- e) *That the learned Magistrate erred in law in considering a special report called "minute" made by the IO in this matter to influence and to insult the court to remand the appellant.*
- f) *That the learned Magistrate failed to weigh the balance it deserves.*
- g) *That the learned Magistrate failed to consider the insufficient evidence the prosecution are relying on*
- h) *That the prosecution are totally relying on CCTV footage only.*

2. The Appellant is charged in the Magistrate's Court in Suva with one count of Damaging Property, contrary to Section 369 (1) of the Crimes Act, and one count of Theft, contrary to Section 291 (1) of the Crimes Act. The Appellant was produced before the learned Magistrate on the 02nd of January 2023, where the learned Magistrate refused the bail on the ground that the Appellant is recorded with two previous convictions of absconding bail; hence, the presumption in favour of granting bail is displaced and also on the basis that the Appellant has 12 other previous convictions.
3. Section 31 of the Bail Act deals with the appellate jurisdiction of the High Court in respect of bail matters, where it states that:


"(1) All grants or refusals of bail and all orders, conditions or limitations made or imposed under this Act are appealable to the High Court upon the application either of the person granted or refused bail or of the Director of Public Prosecutions.

(2) The High Court may—

- a) in its original jurisdiction grant or refuse bail upon such terms as it considers just;*
- b) on an appeal under subsection (1), confirm, reverse or vary the decision appealed from”*

4. The learned Magistrate has correctly considered the Appellant's 14 previous convictions, two of them in relation to absconding bail, in refusing the Appellant's bail. Section 19 (2) (c) (i) and (iii) of the Bail Act states that the Court could consider the previous failure of the Appellant to surrender to custody or observe the bail conditions and also any likelihood of him committing an offence if he is granted bail. Hence, the consideration of the Appellant's previous convictions is within the scope of Section 19 (2) (c) (i) and (iii) of the Bail Act. Therefore, I do not find any merits in this Appeal.
5. The orders of the Court:
 - i) The Appeal is refused and dismissed.
6. Thirty (30) days to appeal to the Fiji Court of Appeal.




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Hon. Mr. Justice R. D. R. T. Rajasinghe

At Suva

29th June 2023

Solicitors.

Appellant In Person.

Office of the Director of Public Prosecutions for the Respondent.