

IN THE DISTRICT COURT OF NAURU  
(Criminal Jurisdiction)

CRIMINAL CASE NO. 21 OF 2016

BETWEEN:

**THE REPUBLIC OF NAURU**  
Complainant

AND:

**KEANU AMRAM**  
Defendant

*Mr. Ravunimase Tangivakatini office of the Public Defender for the defendant.*

*Mr. Filimoni Lacanivalu office of the Public Prosecutions for the defendant*

*Date of Hearing: 25 May 2016*

*Date of Ruling: 1<sup>st</sup> June 2016*

## **Ruling**

1. The defendant is charged with 1 count of intentionally causing harm contrary to section 74 of the Crimes Act 2016. He is alleged to have engaged in conduct which caused harm to Ms. Mwaerow without her consent. The maximum penalty for this offence is if accompanied by aggravating circumstances the penalty is 9 years imprisonment and in any other case the maximum penalty is 7 years imprisonment.
2. The prosecution applies for the defendant to be remanded in custody pending the trial of this matter. The defendant applies for bail.
3. The prosecution has not specified which of the two limbs under section 74 (i) or (ii) the charge is being brought under. It is not for this court to read the evidence and information provided and to infer which proviso is

applicable to this case. The duty to frame and prefer the charges is that of the prosecution. Never the courts.

4. I note the seriousness of the allegations against the defendant on a community liaison officer who is the link between the community and the law enforcement authorities but with the flaw in the framing of the charge against the defendant I cannot determine which limb it falls under nor enter into an exercise of determining the seriousness of the charge against the defendant.
5. I note the letter from Ms. Barina Waqa Secretary for Multi-cultural Affairs raising issues concerning the fact that defendant has prior convictions and the assault on a dedicated community liaison officer, who is also a woman.
6. I remind the prosecution that the duty to provide any prior records of convictions of a defendant before the court is that of the prosecution. I further note that the letter by Ms. Barina Waqa was addressed to the Director of Public Prosecutions and not this court. It would have been proper for the prosecution to investigate the concerns raised by Ms. Waqa and then provide that information to the court; not attach her letter addressed to the Director Public Prosecution to the affidavit of Constable Kitty Biang as was done in this case. It is my view that the letter from Ms. Barina Waqa is for the prosecution to raise her concerns in court; not give her letter to this court.
7. For instance information on the issue of prior conviction could have been given to the court, by way of a search being conducted at the District Court Registry and information provided in terms of the case number, offence convicted of and the order of the District Court. This has not been done in this case.
8. There is therefore no evidence before the court to show that the defendant is a habitual offender and as such there is a real likelihood that he will re-offend.
9. I find that the prosecution has failed to satisfy me that the defendant should be refused bail.
10. The defendant is released on bail subject to the following conditions:

- i) To enter into his own recognizance in the sum of \$100.00 principal bail.
  - ii) Mr. Carlton Amram is to act as surety for the defendant in the principal sum of \$200.00
  - iii) The defendant is to reside with his parents at Denig District.
  - iv) The defendant is to surrender his passport forthwith to the Court.
  - v) Matter is adjourned to 13 July 2016 at 10 am for mention and as and whenever required to do by the court.
11. Further conditions imposed:
- vi) Not to enter within 50 meters radius of the residence of the house of the Alisha Mwaereow.
  - vii) Not to interfere with prosecution witnesses.
  - viii) To report to Nauru police station every Friday between the hours of 9:00am and 5pm and to start reporting on Friday 3<sup>rd</sup> June 2016.
  - ix) To be of good behavior whilst on bail.

Dated this 1st day of June 2016

