



**IN THE SUPREME COURT OF NAURU**

**AT YAREN  
CRIMINAL JURISDICTION**

Criminal Case No.06 of 2020

BETWEEN

Republic

V

Wajeeh Udin

Before: Rapi Vaai, J

APPEARANCES:

Counsel for the Prosecution: F. Lacanivalu  
Counsel for the Accused: R. Tagivakatini

Date of Hearing: 28/04/2020  
Date of Ruling: 28/04/2020  
Date of Reasons: 01/05/2020

Case may be cited as: *Republic v Wajeeh Uddin*

**REASONS FOR RULING**

**Introduction**

1. The accused, an asylum seeker, charged with the crimes of rape and indecent assault sought bail which was opposed by the police. At the completion of the hearing I granted the application and released the accused on bail on several conditions. The following constitutes my reasons for grant of bail.
2. On Saturday the 18<sup>th</sup> April 2020 at about 1.30pm the accused was arrested by the police on an allegation of rape which allegedly took place earlier that day. He was taken before his

Worship the Magistrate at 6.36pm the same day and was then remanded to the following Monday the 20<sup>th</sup> April. He was then remanded to the Supreme Court the following day 21<sup>st</sup> April.

3. In support of his application for bail the accused deposed in affidavit inter alia:
  - (6) I understand that I am under investigation for the offence of rape against Christine Jeremiah.
  - (7) I was in police custody for more than 60 hours and I was not interviewed in relation to the allegations against me. I have now been transferred to the Nauru corrections centre without any progress in my case.
  - (8) I am not familiar with the complainant and do not come into contact with her often.
  - (13) I am not a threat to society and I vehemently deny the allegations against me.

#### **Response in Opposition by the police**

4. The police through the affidavit of police sergeant Lady Jane Hilo conceded the accused was interviewed on the 23<sup>rd</sup> April, five days after his arrest.
5. The police Sergeant deposed at paragraph 16 that the police received a report from one Manto Tsiode, a police officer, at 1.26pm on the 18<sup>th</sup> April that the accused had committed a sexual act on her without her approval.
6. The following paragraphs 17 to 25 then goes on to describe the alleged offending on the complainant Christine Jeremiah.
7. It seems therefore there are two complainants alleging sexual assaults against the accused. Police officer Manto Tsiode and Christine Jeremiah.
8. Police sergeant deposed that the accused is charged with a serious offence and it is in the public interest to keep him in custody. It is alleged that the accused threatened two police officers and their families, and he also told one police officer that he can make a bomb. If released on bail the police contended there is real likelihood that the accused will commit an arrestable offence.

#### **Public interest and protection of the community**

9. The grant of bail is an important process in civilised societies which reject any general right of the executive to imprison a citizen upon a mere allegation or without trial. It is a necessary part of such a system that some risks have to be taken in order to protect citizens in those respects. See "*John Reginal Williamson v DPP*".

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<sup>1</sup> Appeal No 7123 of 1999, unreported, Court of Appeal Supreme Court of Queensland.

10. The court therefore recognises there is a risk of misconduct upon an accused person, or for that matter any person, is free in society. The court therefore moves to consider unacceptable risk.

In that regard the police is of the view that if released on bail there is real likelihood that the accused will commit an arrestable offence. This view is based on the allegations that he threatened two police officers and their families and he told one police officer he can make bomb.

11. The allegations are denied. They are, in the circumstances of Nauru and of the offender insufficient to rebut the presumption to grant bail. Protection of the complainant is not at risk. Neither is the protection of the community.
12. The accused is aware of the consequences if he commits an offence while on bail. There is no risk of failure to appear.

### **Result**

13. The accused is released on bail on the following conditions:
- (i) He shall live and reside at Nibok district,
  - (ii) He is not to interfere with police witnesses,
  - (iii) Not to contact the complainant directly or indirectly,
  - (iv) Not to offend while on bail,
  - (v) To attend to court on the 12<sup>th</sup> May 2020,
  - (vi) Provide surety of \$500; and
  - (vii) Report to police every Friday before 4pm.

Dated this 6 / May 2020



**Judge Rapi Vaai**

