



IN THE SUPREME COURT OF NAURU
AT YAREN
[CRIMINAL JURISDICTION]

Criminal case No. 13 of 2024

BETWEEN: THE REPUBLIC

PROSECUTION

AND: AYKERS DANIEL

ACCUSED

Before: Keteca J

Date of Hearing: 07th November 2024

Date of Ruling: 07th November 2024

Case may be cited as: *Republic v Daniel*

Appearances:

Counsel for the Prosecution: Ms. M. Suifa'asia

Counsel for the Accused: Mr. R. Tagivakatini

RULING

A. BACKGROUND

1. The accused is charged with count of Intentionally Causing Serious Harm: contrary to Section 71(a)(b)(c) and (ii) of the Crimes Act 2016.
2. He was arrested on 10th October 2024. He has been in detention since then.
3. The Information laying the charge against the accused was filed on 06th November 2024.

B. BAIL APPLICATION

4. On 29 October 2024, the Office of the Public Defender filed a Motion seeking that the accused be bailed.
5. In the supporting affidavit of the accused's brother, Dabouge Daniel, he states:
 - i. The accused was released from the Corrections Center previously as he had been detained under the Mental health Act. He has been cleared for release and is stable.
 - ii. He is willing to be the surety for the accused.
 - iii. He and the accused will abide by any bail conditions.
6. The prosecution objects to bail as the complainant is fearful of the accused. Sergeant Jamieson Laan gave sworn evidence as follows:
 - i. He spoke to the accused's brother, Dabouge Daniel on 06th Nov 2024.
 - ii. Dabouge Daniel said that he will take full responsibility of the accused when released.
 - iii. He also spoke to the complainant. She is in fear of the accused.
7. In response, Mr. Tagivakatini submitted that the evidence of Sergeant Jamieson Laan supports the affidavit in support of the accused' brother, Dabouge Daniel. This is a bailable offence.

C. DISCUSSION


8. Under Section 4(1) of the Bail Act 2018, every accused person has a right to be released on bail. The presumption in favor of granting bail to an accused person under subsection (1) may be rebutted by the prosecution. This rebuttal is based on where the interest of justice requires.
9. The offence for which the accused is charged does not fall within the Section 4A where bail is not to be granted in certain circumstances.
10. Having considered the objections of Counsel for the prosecution and the testimony, I am not satisfied that the complainant being in fear of the accused is a sufficient ground to rebut the presumption in favor of granting bail to the accused.

D. ORDERS

11. The application for bail is allowed.
12. The accused is released on bail under the following conditions:
 - i. That the Accused shall reside at their family home in Aiwo District and shall not change his place of residence without the leave of this court;
 - ii. That the Accused is not to commit another offence whilst on bail;
 - iii. That the Accused is to report to the Nauru Police Station every Friday between 9am –4pm until the conclusion of this case;

- iv. That the Accused is to appear on every call date of this case;
- v. That the Accused is to surrender his passport or any other travel document to the court;
- vi. That the accused's brother, Dabouge Daniel is the surety who will ensure that the accused complies with his bail undertaking;
- vii. That the Accused is not to approach or enter the shop of the complainant or interfere with any witnesses;
- viii. That the Accused and his surety are to enter into their own recognizance to abide by the above bail conditions for the sum of \$500.

DATED this 07th Day of November 2024


Kiniviliame T. Keteca
Acting Chief Justice

