

REGINA-V-EDDIE PAUL

HIGH COURT OF SOLOMON ISLANDS
(Naqiolevu, J)

Criminal Appeal Case No. 92 of 2006

Date of Hearing: 4 May 2006

Date of Judgment: 4 May 2006

For Applicant: Mr. S. Lawrence

For Respondent: Mr. R. Talasasa

RULING

APPLICATION FOR BAIL

Naqiolevu J: The applicant seeks bail following the charge of rape committed in the Western Province. The accused was committed to stand trial in the High Court on the 10th of March 2006.

GROUND OFS OF APPEAL

1. Mr. Lawrence in seeking bail for the applicant relies on the affidavit sworn on the 1st of May 2006. The applicant is concerned with his wife who lives in his village in Geza with their one year old child. He has no previous conviction and if bailed wish to return to his village, however is willing to live with his aunt in Honiara if the court so orders.
2. The applicant is willing to abide by any bail conditions and will not interfere with prosecuting witnesses.
3. Mr. Lawrence submit there is no evidence of flight if the applicant is bailed and no evidence of tempering with witnesses, further there is no issue of the public interest that requires the applicant to be remanded in custody.
4. Mr. Lawrence raises the need for the applicant to be released to enable to him to properly prepare for his trial and further likely delay in the trial being dealt with expeditiously. Mr. Lawrence said this is a good case for bail.

CROWN'S SUBMISSION

5. Mr. Talasasa for the crown submits the court has the discretion to grant bail; however the paramount consideration is the fear or the likelihood of interference with witnesses. The seriousness of the offence and the applicant had committed the offence in the home of the victim.
6. Mr. Talasasa referred to the applicant's affidavit in which he said he wished to support his wife and child. The applicant however had committed rape which is second only in seriousness to murder and the court should not take this into consideration.
7. Mr. Talasasa asks the court to consider the probability of absconding and the likelihood of interfering with witnesses. In accordance with the victim's cousin the applicant and the victim live 50 meters apart. Mr. Talasasa asks the court to take judicial notice of the strong cultural ties in the village structure and the ability to accept reconciliation which may have an effect on the trial. Mr. Talasasa asks the court to keep the applicant away from his community.
8. Mr. Talasasa in his final submission said the case is a straight forward case, the witnesses are available and the case ready to proceed. The court he said should be moved to have the case proceed forthwith.
9. The court having considered the application for bail and the reasons advanced. The court has further considered the objections by the crown and the submission in support.

However in considering whether to exercise the discretion to grant bail the court must have regard to the likelihood of the applicant absconding and most important the likelihood of interference with the prosecutions witnesses.

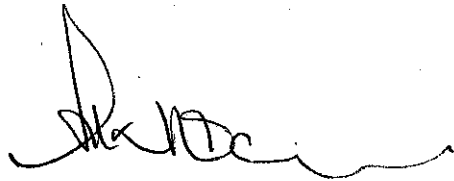
10. The crown's principle objection is the fear of the applicant interfering with witnesses. The applicant live within the same village as the victim and about 50 meters apart and there is a real likelihood of the applicant interfering with the victim and the witnesses.

11. The court while having considered the likelihood of the applicant interfering with the crown witnesses considered this may be overcome by ensuring the applicant does not return to his village community. The applicant had deposed in his affidavit that he is willing to live with his aunt in Honiara if the court so orders. The court having taken these factors into consideration is minded to exercise its discretion to grant bail with very strict conditions. This is to ensure there is no likelihood of the applicant having any contact whatsoever with the prosecution witness.

The court in all circumstances considers this is an appropriate case to exercise its power in favor of the applicant and grant bail with the following strict conditions.

ORDER:

1. Bail in the sum of \$1,000.00
2. That he resides within the area of Honiara town.
3. Does not leave the town without the leave of the court.
4. Not to interfere with prosecution witnesses.
5. Report to the China Town Police post every Friday between the hours of 9.00 am to 4.00 pm.



THE COURT