

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Bail Application No. 25 / 2013

JEFFERY MANIPEN

V

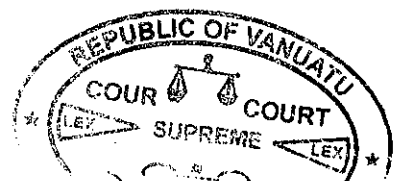
PUBLIC PROSECUTOR

Hearing: 28 October, 2013
Before: Justice Robert Spear
Appearances: Robin Tom Kapapa for the Applicant
Tabisa Harrison for the Prosecution

ORAL JUDGMENT

BAIL

1. This a further urgent bail application made by Mr Manipen. He seeks bail on certain terms on the basis that he is not a flight risk and that he has permanent residence and employment as a bus driver in Port Vila. It is also contended that it is highly unlikely that he will commit any offence while on bail. This new application is supported by a sworn statement from his wife Alice Manipen who effectively pleads for her husband to be allowed to return home so that he can provide financially for the family.
2. I can appreciate that the absence of Mr Manipen from the family has had a serious effect upon the family's income. However, that is not a factor that is persuasive when it comes to assessing the bail for someone charged with such a serious offence as is the case here. As previously mentioned, if Mr Manipen was granted bail, he would most certainly be prohibited from driving a bus.
3. I am informed by counsel that Mr Manipen was committed for trial on 18 October 2013 into the Supreme Court on these charges and he is due to



appear at call over on 5 November 2013. Furthermore, that he has admitted having sexual intercourse with the complainant that morning but he contends that it was consensual sexual intercourse. Of course, that is contrary to the statement that the complainant gave to the police and it is against the general picture presented by the complainant when she was dropped off at the Abattoir and seen by her friend to be in a distressed state.

4. In short, nothing has changed since I gave my oral decision on the first bail application on 8 October 2013 except that it is now clear the only issue at trial will be that of consent.
5. For a serious charge such as this, particularly when the allegation is that a person providing a public bus service has raped a passenger who was a stranger to him, the offending alleged here must be treated as of a serious nature in deed. That requires the Court to be very careful when it comes to granting bail particularly when there is a public safety issue.
6. If anything, since the judgment was given on 8 October 2013, the case against the accused has got even stronger and in those circumstances I do not consider that a risk can be taken by releasing him on bail pending trial.
7. Mr Kapapa mentioned that there has been a custom reconciliation ceremony between the families. That may well have occurred and, if so, then if Mr Manipen is convicted it will be taken in to account with sentence. However, what is important is that there is public accountability for criminal offending and that cannot be bypassed by way of a private custom reconciliation ceremony.
8. The bail application is refused.

BY THE COURT

