

IN THE HIGH COURT OF FIJI
AT SUVA
MISCELLANEOUS JURISDICTION

CRIM. MISC. CASE NO: HAM030/2009

BETWEEN:

LEONE VAKARUSAQOLI

Applicant

AND:

THE STATE

Respondent

Date of Hearing: 24th June 2009

Date of Ruling: 1st July 2009

Counsel: Applicant in Person
Mr. L. Fotofili for State

RULING

[1] The accused re-applies for bail pending trial, having his initial application refused by Shameem J on 6 February 2009.

[2] In her ruling Shameem J gave the following reasons for refusing bail:

“This is an old case, delayed only because of the non-appearance of the accused persons. The Applicant himself has disobeyed his bail conditions for four years and has only appeared in court because he is remanded for another offence. He no longer has a right to bail. Indeed the facts rebut the presumption in favour of bail. The State must now decide whether it will wait for the arrest of the other two co-accused, or will sever the information and proceed to trial against the Applicant. The latter option may lead to a relatively speedy trial. This is a matter for the State to decide.

However, the circumstances of the history of this case are such that the Applicant must remain in custody until his trial. The offences are serious, the State alleges multiple offending with multiple accused, and the Applicant has shown through his own conduct, that he is a bail risk. Further, in evidence before the court in a number of bail applications, there has been a vast improvement in prison conditions. The improvement includes a total renovation of the Sacau Dormitory.

In the interests of justice, bail is refused.”

[3] The accused seeks bail after he was moved from the Korovou Remand Centre to Naboro Maximum Prison. In this regard I heard evidence from the Officer-in-Charge of the Korovou Prison. The officer told the court that the reason the accused was moved to the Naboro Maximum Prison was for the safety and security of accused persons kept at the remand centre.

[4] Evidence was led that the Prison authorities had reasons to believe that the accused was one of the instigators of a recent hunger strike at the Korovou Prison, and for security reasons, the accused was moved to the Naboro Maximum

Prison. The officer said the accused was kept separately from the serving prisoners at the Naboro Maximum Prison, adding the transfer of the accused was only a temporary measure. The accused was moved back to the Korovou Remand Centre on 24 June 2009.

[5] I accept the evidence of the Officer-in-Charge of the Korovou Prison. I am satisfied that the accused's human rights were not violated by the Prison when he was moved from the Remand Centre to the Naboro Maximum Prison for the security of the accused persons in remand. I bear in mind that such measures are necessary when it comes to the over all security and safety of not only the prisoners but the prison officers as well. The accused was kept separately from the serving prisoners at the Naboro Maximum Prison.

[6] I am satisfied that there is no change of circumstances to grant bail to the accused.

[7] Bail is refused.

Daniel Goundar
JUDGE

At Suva
1st July 2009

Solicitors:

Applicant in person
Office of the Director of Public Prosecutions for State