

GODKNOWS NYASHA JIMU
versus
THE STATE

HIGH COURT OF ZIMBABWE
MAXWELL J
HARARE, 28 July & 9 August 2023

Bail

Applicant in person
T Mukuze, for the defendant

MAXWELL J:

Applicant is on remand on a charge of murder. On 13 January 2023 applicant's application for bail pending trial was dismissed. The record shows on dismissing the application the court considered that applicant is a danger to society as he was part of a gang that attacked the deceased. The court also considered that applicant and his accomplices had used dangerous weapons in the commission of the offence. The court further considered applicant a flight risk as he was found in possession of the murder weapon.

On 19 April 2023 applicant applied for bail pending trial on changed circumstances. The changed circumstances he outlined in his application were in response to the investigating officer's affidavit. The application was opposed on the basis that applicant had not shown any changed circumstances in respect of the grounds upon which he was initially denied bail.

On 21 April 2023 I dismissed the application for bail on changed circumstances. I have received a request for reasons for the dismissal. These are they.

In outlining what he termed changed circumstances, applicant responded to issues that were considered when his initial bail application was dealt with. He did not show that he was no longer a danger to society. On the issue of his involvement in a gang, applicant simply stated that:

“The claims by the IO that the applicant will re-unite with supposed accomplices are null and void since he has no pending case or a previous criminal record.”

He did not substantiate how the fact that he has no pending case or criminal record would prevent him from being part of a gang. In the application for bail on changed circumstances applicant attached an affidavit from his mother who swore that she would stay with him until the matter is finalised. The affidavit did not take the applicant's case any further. In the initial application he stated that he was married and has a six months old child. He stated that he was renting at the address he gave, 3019 Maridale Norton. An affidavit from a mother concerning a family man is not persuasive. One would have expected an affidavit from applicant's wife

For the above reasons I was not persuaded that applicant had demonstrated any changed circumstances. I dismissed his application for that reason.

National Prosecuting Authority, state's legal practitioners