

LANKEN PETER  
versus  
THE STATE

HIGH COURT OF ZIMBABWE  
FOROMA J  
HARARE, 5 March 2021 & 31 March 2021

### **Bail Ruling**

*D. H. Chesa*, for the respondent

FOROMA J: Applicant is facing a charge of Murder as defined in s 47 of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*]. The allegation is that the offence was committed on the night of the 25<sup>th</sup> December 2020 when applicant came home drunk and became violent causing his wife to flee into a maize field leaving the deceased alone with applicant.

The post-mortem report indicates an open fracture in the right side of the head which is described as (a) right tempore-parietal –nuptial sub dural haematoma and (b) right tempore parietal bone fracture and (c ) severe head truma. It is alleged that the applicant killed his son with an unknown blunt object before burning him with a candle. It is also alleged that applicant attempted to dump the deceased’s clothes after trying to wash them to clean them of blood.

Applicant applied for bail and the Respondent opposed the application on the grounds that he is of no fixed abode as he is a migrant farm labourer. Applicant’s attempt to destroy evidence linking him to the offence ie. (i) by cleaning the scene of any blood and (ii) burning the deceased’s body disqualifies him as a proper candidate for bail.

Because on the date of initial hearing of the bail application, applicant disputed that his shirt was soiled with blood which he could not explain, the Court requested that the investigating officer be called to testify.

On the 5<sup>th</sup> of March 2021 (the Investigating Officer attended Court and testified confirming that according to applicant’s wife a dispute had arisen between her and applicant regarding the paternity of the deceased whom applicant accused the wife to have sired with a boyfriend. The Investigating Officer also testified that despite applicant attempting to destroy all evidence of blood at the scene applicant’s shirt had some blood spots and the shirt had been

taken as an exhibit- this despite applicant's protests that there was no shirt of his soiled with blood.

The I.O. further testified that the deceased's clothes which had been washed and dumped to destroy evidence by applicant were found still wet and hidden.

The Court is satisfied that the blood found on applicant's clothes betrays the applicant as the assailant of the deceased as the applicant's wife (deceased's mother) did not sustain any bleeding wounds.

The efforts by applicant to destroy evidence disqualifies him as a proper candidate for bail. There is a risk that after failing to do a proper job of destroying evidence he may resort to absconding. He is clearly a flight risk and for this reason his application is dismissed.

National Prosecuting Authority, Respondents' Legal Practitioners