

MORGEN CHIWUNDURA
and
OBERT CHIWUNDURA
and
LANGTON MAENZANISE
versus
THE STATE

HIGH COURT OF ZIMBABWE
MHURI J
HARARE, 18 August 2021 & 30 August 2021

Bail Application

F. Chirenje, for the applicants
H. Muringani, for the respondent

MHURI J: The three applicants were arraigned before the Magistrates Court on three (3) counts of robbery. They applied for bail pending trial. The National Prosecuting Authority filed a response to the application in which it is not opposed to the granting of bail.

I reserved my ruling in this matter indicating that I need to consider whether the consent by the State was proper.

Having read through the papers filed of record I am not satisfied that the consent was properly given.

The facts as stated on the request for remand form (Form 242) show that the robberies were committed by the use of a gun, axe, bolt cutter. Admittedly the seriousness of the offence on its own cannot be used as a compelling reason to not grant an applicant his liberty pending trial. However, in view of the seriousness of the offences, applicants face a very lengthy period of incarceration and this is motivation to abscond trial.

Applicants were positively identified by the complainants at an identification parade, this strengthens the State's case against them. This also gives the likelihood of interfering with the witnesses if released on bail.

Because of the above, I find that applicants are not good candidates for bail. There are compelling reasons not to grant applicants bail.

In the result, it is ordered that the application for bail be and is hereby dismissed.

Mavhiringidze and Mashanyare Legal Practitioners, applicant's legal practitioners
National Prosecuting Authority, respondent's legal practitioners