

WEBSTER MUUNGANIRWA
versus
THE STATE

HIGH COURT OF ZIMBABWE
MAXWELL J
HARARE, 18 August & 28 September 2022

Bail Application

Chikosha, for the applicant
Kamuriwo, for the respondent

MAXWELL J: This application was dismissed on the date of hearing. A request has been made for reasons for the dismissal. These are they:

Applicant is on remand on a charge of rape which occurred in 2021. He is alleged to have forcibly had sexual intercourse with the complainant who is a juvenile. Applicant is also alleged to have stuffed complainant's mouth with a piece of trousers to prevent her from screaming for help. In April 2022 complainant revealed the matter to her sister who informed her mother. A report was made to the police and applicant was arrested on 7 May 2022. On 22 May 2022 applicant appeared before court for initial remand. On 11 May 2022, an application for bail pending trial was filed on his behalf.

On the hearing of the application, Mr Chikosha submitted that the state case is full of inconsistencies and that the complainant is a known prostitute. He submitted that applicant has an alternative address where he can stay until the matter is finalized.

The application was opposed. The investigating officer indicated on the Request for Remand Form that applicant is likely to interfere with witnesses. In the response to the application two reasons were given for opposing bail. The first was that the offence is serious and attracts a lengthy custodial sentence and there is overwhelming evidence against the applicant. In addition applicant admitted to contravening section 70 of the Criminal Law Codification and Reform Act [*Chapter 9:23*] which also attracts a custodial sentence. Secondly, the trial of the matter was scheduled for 25 August 2022.

Mr Chikosha submitted that the imminence of the trial date is not a bar as there is no guarantee that the trial would kick off.

The application was dismissed for the following reasons.

1. There was a likelihood that applicant would interfere with the witnesses as he was alleging that he was in a relationship with the complainant. Moreover, about a week remained before the trial date.
2. The availability of an alternative address is not a guarantee against interference with witnesses in the wake of social media.
3. Assuming that Mr Chikosha was correct that complainant is a known prostitute, there is no law that says a prostitute cannot be a complainant in a charge of rape.

Manyangadze Law Practice, applicant's legal practitioners.
National Prosecuting Authority, respondent's legal practitioners.