

LYTON PANASHE TSHUMA
and
OBVIOUS MAWIRE
versus
THE STATE

HIGH COURT OF ZIMBABWE
TSANGA J
HARARE, 20 & 27 January 2020

Bail pending trial

E Samundombe, for the applicants
B Murevanhema, for the respondent

TSANGA J: The two applicants seek bail pending trial in a murder charge. The first applicant is 18 years old and said to reside at plot 20 Banalands, Battlefields in Kadoma. The second applicant is 21 and is said to reside at Utete Village, Chief Chireya in Gokwe. Both are said to be artisanal miners who work in Kadoma. They are said to have killed the deceased at a business centre on the 31st of August 2018 following an argument. Both deny committing the offence. They state that they only learnt the following day that one of the patrons whom their colleague had an altercation with had died. They say they were surprised to be informed by the police of this matter when they were arrested on a totally different matter. They were then informed that they were connected to the offence by virtue of a photograph taken that day at the scene with some of the suspects.

The Investigating Officer (IO) Ngoni Nyayanewako was called to shed light on the investigations linking them to the offence. She was opposed to bail. She said they committed the murder in question in 2018 together with four others and had been on the run since then. She submitted that there were witnesses who saw them commit the offence at about 02.30am that day when they accosted the deceased for taking their girlfriend. They had dropped a photo at the scene which they had taken that day. They had given false or incomplete names when questioned by the police. The second accused in particular had said he is Tanatsva

Marwisa whilst the first applicant had merely given his names as Panashe Tshuma only. Through the photo it was established that he is Lyton Tshuma. It was only when arrested in connection with another murder that took place on 28 December 2019 that they had been identified through the photograph as the same people. The IO said she had also earlier tried to locate the second applicant at the rural address but had not been able to find him. She explained that they are always on the run.

The applicants are already linked to another murder in B69/2020. Together with this earlier offence for which they seek bail it is evident that they have a propensity for committing violent crimes. These are compelling enough reasons why they should not be granted bail. Furthermore, a key consideration in whether to grant bail is always whether the applicants will stand trial. They are said to have been constantly on the run and would not be proper candidates for bail. Moreover, applicants have been denied bail in B 69/2020. They pose a real risk in terms of committing further offences and endangering members of the public. There is also a real risk that they would not stand trial.

As a result, the application for bail pending trial by both applicants is dismissed.

Samundombe & partners, applicants' legal practitioners
National Prosecuting Authority, State's legal practitioners