

WITNESS PARADZI GARIKAI
and
TATENDA GARIKAYI
versus
THE STATE

HIGH COURT OF ZIMBABWE
MUZENDA J
MUTARE, 14 October 2021

Bail Application Pending Appeal.

C. Chibaya, for the Applicant.
M. Musarurwa, for the Respondent.

MUZENDA J: The two applicants were jointly convicted under HMT 42/20 of Murder by this court on 12 June 2020, their joint accused were Zacharia Mawoko, Lenos Nyadongo, Norman Rapozo and Tapiwa Kangara. On 23 July 2020 an application for condonation for late filing of appeal was dismissed under CON 04/20 on the grounds that there were no prospects of success on appeal. On 21 June 2021 under SC124/21 both applicants were granted leave to appeal to the Supreme Court. Having been granted leave to appeal, the two applicants filed the current application for bail pending appeal. The application is opposed by the state.

In their application for bail the applicants contend that there are high prospects of success on appeal. Applicants attack the conviction on questions of both facts and law and to the applicants the Supreme Court is likely to come up with a different view on the aspects of both conviction and sentence. They both pray that meanwhile they be granted bail pending appeal.

In its opposing papers the state contends that one of the co-accused Tapiwa Kangara appealed against conviction under case No SC 467/20 and the appeal was dismissed in its entirety hence there were absolutely no prospects of success on appeal.

It is not in dispute that both applicants have been granted leave to appeal to the Supreme Court and have since filed the notice and grounds of appeal. However I have also seriously factored in the outcome of *Tapiwa Kangara v S SC 467/20* where almost all the grounds of appeal similar to the ones advanced by the current applicants were considered by the Supreme

Court and the appeal was dismissed. I am of the view that the prospects of success on appeal do not exist in light of the *Tapiwa Kangara v S* matter.

The application for bail pending appeal is dismissed.

Chibaya & Partners, Applicants' Legal Practitioners
National Prosecuting Authority, for the State.