

WENDY CHINHANGA  
versus  
THE STATE

HIGH COURT OF ZIMBABWE  
MATHONSIJ  
HARARE, 24 April 2015

### **Bail Application**

Applicant in person  
*S W Munyoro*, for the respondent

MATHONSIJ: The applicant was indicted on a charge of murder with her trial set for 16 February 2015. Prior to that the applicant was out of custody on bail which terminated upon indictment by virtue of the provisions of s 66 of the Criminal Procedure and Evidence Act [*Chapter 9:07*].

Unfortunately her trial did not take off and the state, which strangely is opposing her admission to bail, does not even begin to say when the trial will kick off. In fact Mr *Munyoro* who appeared for the state does not suggest that the applicant is a flight risk or that her release would prejudice the administration of justice in anyway. Instead he would want the applicant to remain in custody until such time that her *pro deo* counsel has appeared and filed her defence outline. He says that if that is done the state “is likely to reconsider (its) position.”

Care must be taken by the National Prosecuting Authority not to oppose the admission of those they are prosecuting who have not yet been found guilty to bail as a pastime. In terms of the Constitution of this country before an accused person is refused bail there must be compelling reasons for doing so, not fanciful wishes of state counsel not justifiable by any measure. An applicant for bail cannot possibly be denied bail for no other reason than that a public prosecutor wants to have sight of a defence outline. It is unconscionable and cannot be tolerated in a democratic society.

An applicant who was on bail before indictment and dutifully complied with the bail conditions is unlikely to jeopardise the administration of justice merely because a trial date has been set. In the absence of evidence suggesting otherwise, bail should be routinely granted.

In the result, the applicant is hereby admitted to bail on the following conditions; that

1. She deposits \$20-00 with the registrar of this court
2. She resides at No. 2785 Ruvimbo Branch Epworth Harare until the matter is finalised
3. She reports at Domboramwari Police Station every Monday between 6 am and 6 pm.

*National Prosecuting Authority*, respondent's legal practitioners