

CHAPUPUKA GIFT
versus
THE STATE

HIGH COURT OF ZIMBABWE
BHUNU J
HARARE, 24 March 2015 and 5 May 2015

Application for Bail Pending Trial

Applicant is a self-actor
E. Nyazamba, for the respondent

BHUNU J: This is an application for bail pending trial. The applicant is charged with murder as defined in s 47 of the Criminal Law (Codification and Reform Act [*Chapter 9:23*]). The facts leading to the commission of the alleged murder are that the applicant is a member of the traditional Gure cult. The deceased and one Bright Kamiyo were also members of the same cult. On 25 December 2013 the applicant and his team were entertaining a group of people at Mountain View Compound in Bindura.

During the session the deceased is alleged to have infringed one of the cult's rules by unmasking himself in front of the audience. This did not go down well with the applicant and his accomplice Tichaona Jacob who then sought to discipline the deceased.

A few days later the two accused persons assaulted the deceased accusing him of unmasking himself in front of the audience. The matter was reported to the police resulting in the arrest of the applicant and his accomplice and being arraigned before a magistrate. They were then sentenced to do community service. This further infuriated the two who sought to get even with the deceased at an opportune moment. An opportunity presented itself on 24 February when they confronted the deceased who was coming from a beer drink in the company of his brother in law Tawanda Kavhumbura at Chakanaka bus stop.

The applicant and his accomplice are alleged to have attacked and killed the deceased with an iron bar in full view of his brother in law Tawanda Kavhumbura. After murdering the deceased the two threatened and forced Tawanda to help them carry the body to a spot where they stage managed a fake accident to make it appear as the deceased had been killed in a hit

and run road accident. Thereafter the two accomplices threatened Tawanda Kavhumbura with death if he reported them.

The ruse almost succeeded in that the police initially treated the death as due to a hit and run road accident. This was compounded by the fact that for 5 months Tawanda Kavhumbura the critical eye witness to the murder was too timid to reveal or report the murder. It was only on 24 June 2014 that he gathered enough courage to report the murder resulting in the applicant's arrest.

The State has vigorously opposed the granting of bail arguing that the applicant's prior conduct shows that he has a penchant of interfering with witnesses and the due administration of justice. Indeed the facts show that the applicant is of a violent disposition. He is alleged to have attacked and killed the deceased for reporting him to the police resulting in his conviction and punishment for assault by the Magistrates Court. After the alleged murder he attempted to conceal the murder as due to a hit and run accident. He then threatened and intimidated a State witness who was too timid to reveal the murder for 5 months. By his devious machinations he almost succeeded in cheating and defeating the due administration of justice. This clearly shows that the applicant has no respect for the law at all.

It is trite that the courts will not grant bail where the release of an accused person on bail is likely to compromise the due administration of justice. The facts of this case undoubtedly establish that if granted bail the applicant is likely to interfere and compromise the due administration of justice. That being the case, the application can only fail. **It is accordingly ordered that the application for bail pending trial be and is hereby dismissed.**

The Prosecutor General's Office, respondent's legal practitioners