

KNOWLEDGE MARISA
versus
THE STATE

HIGH COURT OF ZIMBABWE
ZHOU J
HARARE, 15 December 2016

Bail Application

Applicant in person
B Murevanhema, for the State

ZHOU J: The applicant is one of 3 accused persons facing a charge of murder as defined in s 47 of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*]. The trial in this matter has commenced and some evidence has been led. While the presumption of innocence still operates in favour of the applicant the court has the benefit of being able to assess the evidence led so far in order to determine whether or not there are compelling reasons for refusing to admit the applicant to bail.

The applicant made an application after the trial had been postponed seeking admission to bail. That application was dismissed. The instant application could only be properly made if predicated upon changed circumstances. The applicant has not placed any such circumstances before this court. The mere fact that his co-accuseds were admitted to bail on the same day that his application for bail was dismissed does not qualify as a change in the circumstances. In admitting the other two accused persons to bail the court applied its mind to the evidence which has been led to date and came to the conclusion that the evidence against the applicant was strong. He admitted to committing the offence. The finding of the court in regard to that matter has not changed.

Accused person's youthfulness is not a new factor. After all, that is only relevant for the purposes of the penalty to be imposed and not in relation to the verdict itself. The absence of the applicant's parents or guardians at the stage when his warned and cautioned statement

was confirmed is also not a changed circumstance warranting an invitation to the court to review the earlier decision to dismiss the application for admission to bail.

In all the circumstances, this application is without merit. It is accordingly dismissed.

National Prosecuting Authority, State's legal practitioners