

PATSON NYAMANDE
and
DEAN W BWANAWASA
versus
THE STATE

HIGH COURT OF ZIMBABWE
HARARE
NDEWERE J
HARARE, 5 March 2019 & 10 May 2019

Bail Ruling

N. Chigoro, for applicants
V Mtake, for the respondent

NDEWERE J: The applicants were charged with robbery of a motor vehicle. They applied for bail. The State opposed the application. The reasons for the opposition were that there were fears that the applicants would abscond and not stand trial.

The State submitted that the applicants were arrested in Zvishavane for offences done in Harare. Upon their arrest, two stolen motor vehicles belonging to Tinashe Magacha and Allan Katsande were recovered from them. They were also found in possession of the complainants drivers' licences and National I.D. cards. The registration numbers of one of the recovered motor vehicles had been changed by the accused persons. Another stolen motor vehicle belonging to Takwana Mafurira was recovered at the indications of the accused persons. There was also evidence that a cellphone belonging to Tinashe Magacha was used by the first applicant after it was stolen from the complainant. The State said the applicants were facing a very serious charge and the evidence was overwhelming. Upon conviction, they were likely to get lengthy custodial sentences. It said the fear of long custodial sentences was likely to induce them to abscond and avoid standing trial.

The applicants challenged the State's assertions. This led to the calling of the investigating officer to come and clarify the facts of the matter. The investigating officer came and confirmed

the recovery of some of the stolen property from the first applicant and from his brother. He said the Honda Fit motor vehicle stolen from Allen Katsande was recovered from the first applicant and so were the National I.D.s belonging to Tinashe Magacha, Sebastian Magacha and Allan Katsande. The investigating officer said the white Toyota Wish was recovered from the second applicant, as well as a mint cellphone. He further said the applicants led the police to the recovery of two size 14 wheels from the Toyota Fun Cargo which they robbed from a motor vehicle in Zvishavane. They sold the wheels in Harare. The second applicant was identified by the investigating officer as the one who fitted the registration plates of a Toyota Fun Cargo robbed in Zvishavane onto another stolen vehicle.

The investigating officer also said the applicants were likely to abscond because they were always on the move. They robbed people in Harare and sold the robbed property to far away places like Chivhu, Zvishavane and Gweru. Then they robbed a vehicle in Zvishavane and sold parts of the motor vehicle in Harare. The investigating officer said the recovered property was available as exhibits.

The court's view is that the investigating officer's evidence confirmed the overwhelming evidence against the applicants. The evidence also confirmed the seriousness of the charge they were facing and indeed, upon conviction, a long custodial sentence was likely and such would induce the applicants to abscond. So the State's fears of abscondment if bail is granted have merit. In fact, it was the investigating officer's evidence that at some point the applicants fled from the police whilst they were in handcuffs.

The evidence from the investigating officer clearly shows that there are compelling reasons to deny the applicants bail. Bail is accordingly denied.

Chigoro Law Chambers, applicants' legal practitioners
National Prosecuting Authority, respondent's legal practitioners