



IN THE SUPREME COURT OF NAURU

AT YAREN

Criminal Case no 13 of 2017

The Republic

And

Bobson Bill, Michael Jordan and Frisco Dagiago

Before: Khan, ACJ
Date of Hearing: 21 July 2017
Date of Ruling: 21 July 2017

Case may be cited as: 'Republic v Bobson Bill & Ors'

CATCHWORDS

Application for bail- matters to considered in determination of the application -section 80 of the Criminal Procedure Act 1972 and section 80A of the Criminal Procedure (Amendment) Act 2016

Appearances

For the Republic: L.Tabuakuro
For the Defendants: V. Clodumar

RULING

INTRODUCTION

1. The defendants are charged with one count of aggravated burglary and one count of deprivation of liberty contrary to s.161(1) and 88(1) of the Crimes Act 2016 and the maximum penalty for the two offences is 12 years and 7 years respectively.

BREIF FACTS

2. The two offences are alleged to have taken place on 1 July 2017 at around 11pm. The victim is a Chinese lady operating a restaurant. Having closed her restaurant at about 10.45 pm she had reached her home and was about to get out of her car when she was grabbed from behind and put in another car which was parked beside her car. She did not see any of the people who had attacked her as their faces were covered, but she was able to see their built and skin colour; and was also able to recognize the vehicle which had stopped beside her car having seen it previously. Her attackers asked for money and she told them that all the money was in her handbag and despite that, two of the defendants obtained the keys from her handbag and went into her house to search her house whilst the third defendant stayed with her in the car.
3. After the incident, a Nauruan security guard by the name of Bamo Aliklik employed by the complainant made enquiries and he was told by Krita Namaduk that she had seen Michael getting out of a Honda CRV. As a result of this information Bamo went to Michael and asked him to return all the items stolen from the complainant. Michael admitted to him that the Chinese lady was abducted by him and Bobson Bill and Frisco Dagiogo.
4. Subsequently, all the defendants were arrested by the police and interviewed and they denied any involvement in the offences. They were charged and produced before the District Court between 7 to 10 July and were remanded in custody until this case was transferred to this court on 13th July 2017 when they were further remanded in custody.

APPLICATION FOR BAIL

5. The prosecution is opposed to bail and the defendants have made an application for bail under the provisions of s.80 of the Criminal Procedure Act 1972 and s.80A of the Criminal Procedure (Amendment) Act 2016 which provides that in dealing with the bail application the following matters are to be considered:
 - (a) Strength of the prosecution case;
 - (b) The circumstances, nature and seriousness of the charge;
 - (c) The likelihood that the person may continue offences if granted bail;
 - (d) The protection of the person from the public;
 - (e) The public interest and the protection of the community.
6. The prosecution in response to the defendants' application had filed an affidavit of Inspector Imran Scotty in which he deposes that the prosecution case is strong; that the victim is very traumatized and fears for her safety; that over the past several weeks there have been a spate of robberies and burglaries against the Chinese community; that their intelligence has revealed that the defendants are members of 'barzoom squad' who are the likely perpetrators of these serious crimes; that the Chinese community is important

to Nauru as they provide essential services to its people by operating shops and restaurants.

7. Mr Clodumar submits that the prosecution's case is weak and he describes it as "questionable"; he however concedes that the offences are serious; given the background of the defendants, they are unlikely to re-offend; and all defendants are first offenders except Frisco who has one previous conviction for a similar offence in 2008.

CONSIDERATION

8. It is true that none of the defendants were identified as their faces were covered; but there is evidence of their built, skin colour; there is evidence of Michael Jordan seen coming out of a Honda CRV ; evidence of the complainant identifying the car which she had seen on previous occasions and then the confession by Michael Jordan to Bamo Aliklik in which he implicated the other two defendants (whether that would be admissible in evidence is something I do not wish to consider at this stage) suffice it to say that there is very strong circumstantial evidence against the defendants.

CONCLUSION

9. With this spate of robbery and the threat to the Chinese community and the protection to their community and the public at large remand all the defendants in custody. In the circumstances, the application for bail is refused

Dated this 21 day of July 2017.



Mohammed Shafiullah Khan
Acting Chief Justice

