



**IN THE SUPREME COURT OF NAURU  
AT YAREN  
[CRIMINAL JURISDICTION]**

**Criminal Case No. 13 of 2022**

**BETWEEN:** MANNY ABO QUADINA

**AND:** THE REPUBLIC

**APPLICANT**

**RESPONDENT**

**BEFORE:** Keteca J

**Date of Hearing:** 09<sup>th</sup> October 2024

**Date of Ruling:** 11<sup>th</sup> October 2024

**Case may be cited as:** Quadina v Republic

**Catchwords:** Application for variation of Bail to travel to Australia without any reasons

**Appearances:**

Counsel for the Prosecution: **S Shah**

Counsel for the Accused: **R. Tom**

**RULING**

**A. BACKGROUND**

1. The applicant is charged with one count of Manslaughter: contrary to Section 56(a)(b)(c) and one count of Recklessly causing harm: contrary to Section 75(a) (b)(c) (i) of the Crimes Act 2016.
2. On 07<sup>th</sup> October 2024, the applicant filed an application for variation of bail to allow him to accompany the Deputy Speaker, Hon. Maverick Eoe to Brisbane on 12<sup>th</sup> October 2024. The application is based on Section 22(2) (c) of the Bail Act 2018 which reads:  
*'The court shall have jurisdiction to review the conditions of bail where:  
'(c) an accused person seeks variation for personal, humane, compassionate or health reasons.'*

3. In his affidavit, the Applicant says:
  - i. He is engaged to Estrella Gourab and they have three children;
  - ii. He wishes to be part of Deputy Speaker's delegation to Brisbane;
  - iii. He has no intention of leaving Nauru. He undertakes to appear to answer to the charges;
  - iv. He works for a private company as a water tanker driver;
  - v. He seeks the release of his passport to allow him to travel.
  
4. Zachariah Quadina the brother of the Applicant and Estrella Gourab, the defacto partner of the Applicant filed affidavits in support of the Bail variation. They depose that they are willing to pay \$500 each to the court should the Applicant not return from Brisbane.
  
5. The application is opposed by the Republic on the following grounds:
  - i. The applicant is charged with a very serious offence;
  - ii. The applicant has not annexed any documents to substantiate his travel;
  - iii. There are no reasons provided by the Applicant as to the reasons for his travel.
  
6. I heard the matter on 09<sup>th</sup> October 2024. Counsel for the Applicant was not forthcoming as to why the accused needed to travel with the Deputy Speaker. There is no mention of any reason in the Applicant's affidavit either.
  
7. There is clearly no evidence to satisfy Section 22(2) (c) on 'personal, humane, compassionate or health reason' for the conditions of bail granted to the accused be varied.
  
8. A letter of support for the Bail Variation Application from the Deputy Speaker of Parliament, Hon. Maverick Eoe was also filed at 1445HRS, 09<sup>th</sup> Oct 2024. In this letter, the Deputy Speaker says:
  - i. He supports the application for Bail variation so the Applicant, and 17 others, can travel to Brisbane with him;
  - ii. The trip to Brisbane is a 'gesture of appreciation for the unwavering support and contributions to our constituency of AIA;
  - iii. He believes that the Applicant 'shall conduct himself appropriately throughout our journey.'
  - iv. They are scheduled to depart Nauru for Brisbane on 30<sup>th</sup> Oct 2024 and to return on 09<sup>th</sup> November 2024.
  - v. He 'is committed to ensuring that the Applicant complies with all legal requirements for travel; and
  - vi. He will take full responsibility for his actions and will ensure his adherence to all rules and regulations **during our trip.**'

## **B. DISCUSSION**

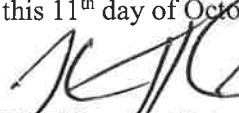
9. Counsel for the Applicant filed the case of *Denuga v R [NRSC]12; Criminal Appeal No 5 of 2021*.
  
10. The prosecutor filed the same case and *Dabwido v The Republic [2016] NRSC 31; Case No 80 of 2016*.

11. In *Denuga v R*, it recognised that the Court has powers to vary bail conditions under Sections 31(5) and (7) of the Bail Act 2016 as follows:
- (5) A Court which has power to review a bail condition, or to hear a fresh application under s. 15(1), may, if not satisfied that there are special facts or circumstances that justify a review, or making of a fresh application, refuse to hear the review or application.
- (7) The power to review a decision under this Part includes the power to confirm, or reverse or vary the decision.
12. The Applicant has been on bail since 23<sup>rd</sup> March 23. Under Section 17(2) Of the Bail Act 2018:
- ‘the primary consideration in deciding whether to grant bail is the likelihood of the accused person appearing in court to answer the charges laid against him or her.’
- This is also the consideration that the court must address in the variation to bail applications.
13. From the evidence before the court, I note the following:
- i. The Applicant does not own or co-own any property on Nauru;
  - ii. He lives in a defacto relationship with his partner. There is no evidence that they co-own any property;
  - iii. The \$500 submitted as personal recognizance by the Applicants brother and defacto partner are minimal amounts compared to the \$5,000 (a total of \$15,000) in the Sprent Dabwido case above- Case No. 80 of 2016;
  - iv. The ‘commitment’ and ‘full responsibility’ undertaken by the Deputy Speaker of Parliament Hon. Maverick Eoe, falls short of stating that he would ensure that the Applicant will return to Nauru to answer the charges laid against him.
14. I also note that there is no evidence before the court to support the variation of the bail conditions under Section 22(2) (c) Bail Act 2018 – based on personal, humane, compassionate or health reasons.
15. Further, there is the ‘public interest and the protection of the community “factors that the court need to consider. Any possibility of the Applicant absconding whilst in Australia will defeat the public interest in ensuring that the Applicant answers to the serious charge of Manslaughter laid against him. The possibility of the Applicant not returning is real. Apart from his defacto partner (no evidence as to how long they have had this relationship) and the three children (no evidence as to their respective ages and who the biological parents are), the minimal amounts of \$500 offered as personal recognizance, there is insufficient evidence to persuade me that the Applicant is committed to returning to Nauru to answer to the Manslaughter charge.

### C. CONCLUSION

16. Considering all the above, the application to vary the bail condition of the Applicant to have his passport released to him and he be allowed to travel to Brisbane, Australia, is dismissed.

DATED this 11<sup>th</sup> day of October 2024

  
Kiniviliame T. Keteca

Acting Chief Justice

