

RONALD ROORAI SAMBO  
versus  
THE STATE

HIGH COURT OF ZIMBABWE  
MATHONSI J  
HARARE, 12 April 2012

### **Bail Application**

Applicant in person  
*C. Chimbari*, for the applicant

This is an application for bail pending trial which was only filed on 15 March 2012 when the applicant and his co-accused were arrested on 12 September 2010. The applicant says he once filed a bail application but withdrew it.

The applicant is facing a charge of murder and his trial has been set for 14 May 2012 in this court. The allegations are that on 2 July 2010 himself and 3 others proceeded to Gletwin Farm in Chishawasha armed with pistols. They were driving 2 motor vehicles which they parked some distance away from the farm gate. They allegedly walked to the farm, cut a hole on the security fence to gain entry and then proceeded to the guard room.

It is alleged that they threatened 2 guards with pistols before tying their hands and legs. They proceeded to the chicken run where they handcuffed another guard before assaulting him demanding keys to the storeroom. The guard in question screamed attracting the attention of another guard, the deceased, who came to investigate. When the now deceased appeared armed with a catapult, the applicant and his accomplices allegedly shot him 3 times on the chest, cheek and stomach resulting in his death.

The applicant and his co-accused were later arrested. They allegedly made indications which led to the recovery of the firearms and the getaway vehicle, a red vauxhall registration number AAL 1577. The applicant has remained in custody since that time.

The applicant, who appeared in person, submitted that 3 dates have been given for their trial previously but on each occasion the trial has failed to take off. He attributes the failure to try them to the fact that the State has no case against them. He further submitted that the State is relying on indications which were induced by assault as well as warned and cautioned statements which were not made freely and voluntarily. In his view, he has no

incentive to abscond as he would like to clear his name and expose the violence being used by the police against accused persons.

Mr *Chimbari* for the State submitted that the trial of the applicant has been set to commence on 14 May 2012 and that of the applicant is a flight risk given that there is overwhelming evidence against him and his co-accused. As he is facing a serious charge where capital punishment may be imposed, this will act as an incentive for abscondment.

*Prima facie* the State case against the applicant is very strong, what with the indications that were made by his co-accused which led to the recovery of the weapon used in the commission of the crime and the fact that the applicant was fingered by his co-accused Kudzai Madziro. The applicant also admits having given an incriminating warned and cautioned statement which he intends to challenge at the trial. Whether he will succeed in his endeavours is a matter for another court and not the present inquiry.

That the applicant faces a serious charge is self-evident. This application therefore turns on the risk of abscondment. In *S v Jongwe* 2002(2) ZLR 209(S) at 215 B-C, the Supreme Court set out considerations for abscondment as follows:-

“.... In judging the risk that an accused person would abscond the court should be guided by the following factors:-

- (i) The nature of the charge and the severity of the punishment likely to be imposed;
- (ii) The apparent strength or weaknesses of the State case;
- (iii) The accused’s ability to reach another country and the absence of extradition facilities from the other countries;
- (iv) The accused’s previous behaviour;
- (v) The credibility of the accused’s own assurance of his intention and motivation to remain and stand trial”.

I have already stated that the case against the applicant is very strong and that the charge he is facing is serious indeed. The applicant is a sophisticated person who was a police officer at the time of the alleged offence and would have little difficulty reaching another country. I am not swayed by his assurances that he would like to have his day in court in order to expose the brutality against accused persons being perpetrated by our police force. It

is not clear when he underwent this damascene transformation he having been a member of the force until his arrest.

Indeed, if convicted, the applicant is likely to be sentenced to a lengthy prison term, if not to capital punishment. These considerations will certainly act as motivation for abscondment.

In any event, this application is coming rather late in the day when the applicant's trial date is a month away and yet he has not bothered to apply for his release all this time since he was arrested. When he should be bidding his time for his day in court he now actively agitates for his release, raising the probability that he will not stand trial.

I conclude therefore that the applicant is not a good candidate for bail.

Accordingly the application is dismissed.

*Attorney-General's Office*, respondent's legal practitioners