

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

Criminal Case No. 16/2008

REX

Vs

SICELO S. MAKHUBULA

Coram

S.B. MAPHALALA - J

For the Applicant

IN PERSON

For the Respondent

MISS N. LUKHELE

JUDGMENT 7th March 2008

[1] The Applicant Sicelo S. Makhubula is facing two robbery counts wherein the first robbery count was committed in the year 2006 at Shewula area and the second count is also in respect of robbery at Lomahasha area.

[2] He has moved this court to be released on bail in a letter directed to this court on the 8th November 2007. In the said letter he states that he is a father of two children who are his sole responsibility. He avers further that their mother is not working. During his arrest he was working at Mhlume Sugar Company and he wants to go back to work. He urged the court to grant him an affordable bail amount as he is no longer employed. He has promised to abide to all conditions that the court may set before him.

[3] The Crown opposes the application for bail and in respect thereto an opposing affidavit of the investigating officer one 4650 Constable Musa Mamba is filed. In the said affidavit the main ground for such opposition is that the Applicant will abscond as he holds a double citizenship as a citizen of South Africa in Mbuzini area which is along the Lomahasha - Swaziland and the Republic of South Africa Border. In paragraph 8 to 11 of the said affidavit averments are made by the officer of how the Applicant has tried to escape from the lawful custody of the police in Swaziland on a number of occasions.

[4] Counsel for the Crown cited the Bophuthatswana case of S vs Mataboge and others 1988 BGD 538 to the proposition that failure of a person released on bail to attend his trial would seriously prejudice the ends of justice.

[5] Having considered the circumstances of this application, the nature of the charges as well as the severity of the possible sentence. I have also took into account the ease in which the Applicant could flee from the jurisdiction of the court to avoid trial. This is clearly stated in paragraph 8 to 11 of the Respondent's opposing affidavit. I have come to the considered view that it will not be in the interest of justice to release the Applicant on bail.

[6] In the result, for the afore-going reasons the application to be released on bail is refused. I make no order as to costs.

S.B. MAPHALALA – J
JUDGE