

**IN THE HIGH COURT OF SWAZILAND**

HELD AT MBABANE

Criminal Case No. 28/2008

REX

Vs

VIKA VELABO DLAMINI

Coram

S.B. MAPHALALA - J

For the Applicant

MR. M. MABILA

For the Respondent

MISS N. LUKHELE

JUDGMENT

11<sup>th</sup> March 2008

[1] The Applicant Vika Velabo Dlamini, a Swazi male of Logoba area in the Manzini District has filed this application under a Certificate of Urgency to be released on bail. On the 16<sup>th</sup> December 2007, he was arrested by members of the Royal Swaziland Police stationed at Manzini under the Serious Crimes Unit and subsequently charged with armed robbery. He is currently kept at Zakhele Remand Centre.

[2] The Respondent opposes the application and in this regard has filed the affidavit of

police officer Detective Superintendent Josefa Bhembe based at Manzini Regional Headquarters. In the said affidavit a number of grounds are canvassed in paragraph 4 (1) to (6) to the general proposition that Applicant will abscond trial. That his release will in fact endanger the safety of witnesses in this case thus failing the objective or proper function of justice.

[3] In arguments before me the Crown stated that it would like to call *viva voce* evidence of the above-cited officer to state facts that he would not have averred in his affidavit. Counsel for the Applicant was opposed to this holding that the Respondent stands or fails on the opposing affidavit filed such that the court is obliged to only determine what is on the affidavits.

[4] I have considered the arguments of the parties regarding whether I should allow the calling of *viva voce* evidence or not and I have come to the considered view after the practice in past cases to allow the calling of *viva voce* evidence by the Crown.

[5] In the result, for the afore-going reasons I rule that the Crown lead *viva voce* evidence of the police officer mentioned in paragraph [2] above. I make no order as to costs.

**S.B. MAPHALALA**

**JUDGE**