

**IN THE HIGH COURT OF ESWATINI
BAIL RULING**

HELD AT MBABANE

CASE NO. 02/2022

In the matter between:

JOHANNES MBANGO FAKUDZE

1st APPLICANT

MLUNGISI QUINTON MAJANANA FAKUDZE

2nd APPLICANT

SANDZISO FAKUDZE

3rd APPLICANT

MFANASIBILI BONGANI FAKUDZE

4th APPLICANT

BHEKI SONBOY TSABEDZE

5th APPLICANT

DANIEL BOY MASEKO

6th APPLICANT

NKOSINATH MCHUMANISI FAKUDZE

7th APPLICANT

BHEKISISA PHORO FAKUDZE

8th APPLICANT

Versus

THE KING

RESPONDENT

BAIL RULING

Neutral Citation: *Johannes Mbango Fakudze & 7 Others vs The King (02/2022) [2022] SZHC 25 (24th February 2021)*

Coram: LANGWENYA J

Heard: 10 January 2022; 19 January 2022; 24 February 2022

Delivered: 24 February 2022

Summary: *Criminal Procedure-accused indicted for premeditated murder under fifth schedule of the Criminal Procedure and Evidence Act as amended-Crown alleged applicants acted in execution of a common purpose.*

Held, that the applicants have adduced evidence on a balance of probabilities which satisfies the court that the interests of justice permit their release in accordance with section 96(1)(a) and 96(12)(b) of the Criminal Procedure and Evidence Act 67/1938 as amended.

Held further that in addition, applicants have adduced evidence which satisfies the court on a balance of probabilities that exceptional circumstances exist which in the interest of justice permit their release as required by section 96(12)(a) of the Criminal Procedure and Evidence Act 67/1938 as amended-accordingly applicants are admitted to bail-conditions to be complied with set out in the ruling.

Introduction

- [1] This is an opposed application for bail. The applicants are adult male emaSwati and residents of Mampempeni and Sigcaweni areas in the Lubombo district.
- [2] The applicants are jointly charged with the crime of murder. It being alleged that: on 24 December 2021 and at Mampempeni, the accused persons acting in furtherance of a common purpose did unlawfully and intentionally kill Norman Tsabedze by assaulting him with sticks all over the body and did thereby commit the offence of murder.
- [3] The first, third and fifth accused are jointly charged with the offence of assault with intent to cause grievous bodily harm. In that on 24 December 2021 and at Mampempeni, the accused persons, acting in furtherance of a common purpose did wrongfully and unlawfully assault Brian Mhlanga with sticks several times all over the body with intent to cause grievous bodily harm and did thereby commit the said offence.

Brief background

- [4] The first accused-Johannes Mbango Fakudze is related to the deceased-Norman Tsabedze because their mothers are sisters¹. In the context of SiSwati, the first accused and the deceased are brothers while in the context of the Europeans, they are cousins.
- [5] The second, third, seventh and eighth applicants are siblings².

¹ See: Respondents' Answering affidavit at paragraph 6.4 as well as first respondent's replying affidavit at paragraph 10.1, page 43 and 104 of the Book of pleadings respectively.

² See paragraph 77.4 of Respondents' Answering affidavit at page 73 of the Book of Pleadings.

- [6] The first and the second applicants are employed at Umbutfo Eswatini Defence Force (UEDF) as a sergeant major and as a private respectively. The first applicant is currently stationed at eMbangweni army barrack. The second applicant is stationed at Phocweni army barrack (Mphumalanga royal residence in Siteki).
- [7] The third applicant is employed as a truck driver in the Republic of South Africa and stationed at Witbank. He is a cross-border truck driver. The fourth applicant, a widower was unemployed at the time he was arrested for the offences charged. The fifth applicant was once a member of the community police at Sigcaweni. At the time of the alleged commission of the offence, the fifth applicant was no longer a member of the community police at Sigcaweni. The sixth applicant is a sixty-five year old widower and a member of the community police at Malindza area. The seventh applicant is employed at Grace Springs as a mechanic. The eighth applicant is employed as a truck driver at Mhlume.
- [8] The ages of the applicants range from 36 years to 65 years.
- [9] It is common cause that the alleged offences were allegedly committed on 24 December 2021 at Mampempeni. On the said date, the community is said to have held a meeting to discuss an issue of stock theft in the area. The applicants deny involvement in the assault of both the deceased and the complainant. Some of the applicants admit involvement in the questioning of the deceased and the complainant following the discovery of two live goats in a motor vehicle where the complainant was a passenger. The said motor vehicle was said to have been driven by a woman whose name remains unknown.

- [10] The complainant in the second count and the deceased in the first count were questioned by community members on 24 December 2021 about stock theft in the area. They were subsequently both assaulted. The deceased succumbed to death as a result of the assault. The complainant suffered injuries and was taken to the hospital where he was treated and discharged.
- [11] The Crown has fingered the applicants as the people responsible for the commission of the offences for which applicants have been indicted. All the applicants deny the charges against them. All the applicants undertake to: present themselves to court for trial when called upon to do; not to interfere with Crown witnesses; not to evade trial; not to endanger the safety of the public; not to undermine the proper functioning of the criminal justice system including the bail system. The applicants contend that there is no need for them to establish the existence of exceptional circumstances before they are admitted to bail because, in their view, the offences complained of were not pre-meditated. For these reasons, applicants aver that they are good candidates for bail and should be admitted to bail.
- [12] According to the affidavit of 5709 Detective Constable Ndumiso Calvin Myeni the applicants should not be admitted to bail because: (i) if admitted to bail, the applicants will interfere with Crown witnesses; (ii) they will leave the court's jurisdiction and evade trial; (iii) they will endanger the safety of the public by committing other crimes listed in part II of the first schedule of the Criminal Procedure and Evidence Act 1938 as amended; (iv) they will undermine or jeopardize the objectives or the proper functioning of the criminal justice system; and lastly, the applicants failed to establish the existence of exceptional circumstances.
- [13] I now turn to consider respondents' grounds for opposing bail.

Interference with Crown witnesses

- [14] The respondents contend that applicants, if released on bail are likely to interfere with Crown witnesses. The issue involves the examination of four factors: first, whether or not the applicants are aware of the identity of the Crown witnesses or the nature of their evidence. Second, whether or not the Crown witnesses have already made their statements to the police and further committed themselves to testify during the criminal trial or whether the matter is still being investigated by the police. Third, the nature and extent of the relationship between the applicants and the Crown witnesses as well as the likelihood that the witnesses could be influenced by the applicants; and lastly, the effectiveness of conditions that may be imposed by the court to prevent possible communication between the Crown witnesses and the applicants³.
- [15] There is no evidence that the applicants are aware of the identity of Crown witnesses as well as their evidence against them. Furthermore, there is no evidence of the extent of the relationship between the applicants and the prospective witnesses of the Crown which could influence or intimidate them. Similarly, no evidence has been placed before this Court to suggest that the applicants have access to evidential material which will be presented at their trial.
- [16] It was argued that the applicants will likely interfere with Crown witnesses; conceal and destroy evidence. The respondents contend that the applicants know the witnesses. It has not been stated who the witnesses are as the summary of evidence has still not been prepared and served on the applicants. For this reason, applicants cannot be said to know the witnesses,

³ *S v Mhlawuli and Others* 1963 (3) SA 795(C) at 822-823.

less still what they will testify to. The investigating officer does state that police have completed their investigation of the matter. My view is that if the police investigations have been completed, that means the people identified as Crown witnesses have recorded statements and have agreed to testify on behalf of the Crown. There is no concrete evidence by the investigating officer about an impending threat of interference or any attempt to influence Crown witnesses. In the absence of concrete evidence about applicants' interference with Crown witnesses, and given that the investigations are complete, it is my view that the objection on this ground is not sustainable. Furthermore, should there be future concerns about possible future interference, it can be addressed by adding a further bail condition.

- [17] It is insufficient for the investigating officer to make bald assertions that the applicants will interfere with Crown witnesses; he must also show that his assertions are well founded. Simply alleging that the applicants will interfere with Crown witnesses and or conceal and destroy evidence without substantiating such allegations does not meet the threshold of compelling reasons required in bail applications.

Applicants will leave the court's jurisdiction

- [18] The respondents aver that if granted bail, the applicants will likely evade trial because the charges they are facing are very serious and if tried and convicted, they are likely to spend a very long time in prison. It is contended further that whatever bail amount may be fixed by the court, the applicants may forfeit it and leave the country to reside in the neighbouring countries. It is alleged the applicants may skip the country through the many porous informal border crossings which require no production of a passport. Respondents contend further that some of the applicants may leave the

country and relocate and start a new life in the Republic of South Africa. Getting the applicants to return to eSwatini, it is argued, would be a mammoth task as the process of extraditing them is a long and cumbersome one⁴.

- [19] None of the applicants were arrested on 24 December 2021. They were arrested between 25 December and 26 December 2021. They were arrested in their respective places of residence. They did not flee the court's jurisdiction prior to their arrest even though they had the time to do so.
- [20] The first applicant was in 2012 arrested and charged with the murder of Mukelo Fakudze and was subsequently admitted to bail. He did not leave eSwatini. I agree with the first applicant that his employment as sergeant major in the army is a good reason he would not leave the court's jurisdiction. Ten years after the alleged commission of the crime of murder of Mukelo Fakudze, the first applicant has still not been prosecuted and he has not left the court's jurisdiction. When the court enquired from counsel for the Crown why the matter has still not been prosecuted, there was no reason given.
- [21] Although Mr Myeni formulated the reason for objecting on the ground of the risk of absconding based on the evidence and issues that arose when the offences were allegedly committed on 24 December 2021, he did not give an opinion on how the fact that the first applicant occupies a senior position in the army affects the issues of him absconding trial.
- [22] It is not in dispute that the first applicant-a sergeant major in the army-has his family home at Mampempeni and that he resides thereat when not at

⁴ See: paragraph 64.4 of Respondents' Answering affidavit at page 68 of the Book of Pleading.

work. I am not persuaded that the first applicant can easily sacrifice his job in the army and his family and opt for the route to become a fugitive. He has had ten years awaiting trial for the murder of Mukelo Fakudze. He has not left the court's jurisdiction.

- [23] The second applicant has shown that he is rooted in the country as a private in the army and a family man with a wife and children and a home at Mampempeni. It is urged that he will leave the country through informal border crossings because he is stationed at an area that is close to such border crossings. The applicant, in my view is emotionally and economically rooted in the country. There is therefore no merit in respondents' averment that second respondent will likely flee the country.
- [24] Respondents aver that it would be difficult to extradite applicants. Difficult is not the equivalent of impossible. The office of the DPP is staffed by well able and qualified counsel who can make the necessary application to extradite any of the applicants from the Republic of South Africa-a country where extradition arrangement exists between the two countries.
- [25] The court was shown a valid work permit of the third applicant issued in the Republic of South Africa. It was the averment of the respondents that the third applicant neither had a work permit nor did he use the formal borders to travel between eSwatini and the Republic of South Africa. It was submitted that the third applicant has a sibling who resides permanently in South Africa; that if released on bail, the third applicant will likely relocate to South Africa and live there permanently. The fear of a long custodial sentence if convicted, is motivation enough for him to skip the country-so it was argued.

- [26] I do not for a second doubt that the country's borders are porous. I also do not doubt, on the basis of the evidence before me that the third applicant is mobile and travels between eSwatini and the Republic of South Africa often⁵. While mobility of the applicant is a factor which must be considered in the weighing of the scale, it is not the only factor to be so assessed. The applicant's relevant factors must be considered in the weighing of the scale. It may indeed be a possibility that the applicant may take the route of being a fugitive from justice but another consideration in my view, would be that a person who regularly moves between eSwatini and the Republic of South Africa on account of being a cross border driver would not without serious consideration opt to abandon his family and his motherland in the face of hardship as a fugitive. The fact that the third applicant returns home often is, in my view indicative of enduring ties with eSwatini. This, taken together with my view as to the probabilities on the strength of the prosecution's case leads me to the conclusion that there is not such great risk of absconding.
- [27] I am of the view that where it is argued the applicants will flee to South Africa in order to evade trial, there is a remedy. They can always be extradited back to the country to face justice. This, coupled with the fact none of the applicants sought to evade justice after the commission of the offences and were arrested by the police at their respective areas where they are resident is testament to me that they are not likely to be fugitives of justice.
- [28] As regards the sixth applicant, an elderly man of sixty-five years old, a widower whose two children are dead, it is averred by respondents that he has nothing to lose as his wife and children are dead and can sooner relocate

⁵ See Annexure 1.

to another country if admitted to bail. Why, if the applicant meant to be a fugitive from justice he did not leave two days after the crimes were allegedly committed and before he was arrested, has not been explained by the Crown. It has not even been shown that the elderly man travels between the neighbouring countries and eSwatini. For this reason, respondents' argument is unsustainable.

- [29] The reason for objecting to eighth applicant being admitted to bail is because, among others, he has relatives in South Africa. It is said he may use informal crossings to relocate to South Africa and start a new life with his relatives there. In my view, it does not follow that if you have relatives in South Africa or anywhere else for that matter, you would necessarily want to relocate and live there permanently. More should be said in support of this contention. Even if applicant moved to South Africa, that would not be the end of the matter as he can always be extradited.

Applicants will endanger safety of public and commit other offences

- [30] It was argued that the first and the third applicants were once arrested for murder and malicious injury to property and assault respectively. The first applicant was arrested for murder in 2012 while the third applicant was arrested for malicious injury to property in 2003 and for assault in 2006. He paid a fine of E1500 and E500 for malicious injury to property and assault respectively.
- [31] With regard to first applicant's charge of murder of 2012, it is trite that a pending criminal charge, in the absence of a conviction, does not constitute a propensity to commit crimes⁶.

⁶ See: *Musa Waga Kunene v Rex* (03/2016) [2016] SZSC 26 (30 June 2016) at page 12 and paragraph 13.

- [32] With regard to the crimes committed by the third applicant between 2003 and 2006, it has been nineteen years and ten years respectively since those crimes were committed, the applicant was tried and punished for them. The period since the applicant last committed crimes is long, it is not, in my view a reflection of a man who, as a matter of course commits crimes with frequent regularity.
- [33] It is not in dispute that at the time the offences were allegedly committed and a few days thereafter, the situation at Mampempeni was volatile as the community was divided into different factions. Different factions sided with the applicants and the complainant and deceased's families. It has not been established through the affidavit of the investigating officer that the situation is still volatile two months after the crimes were allegedly committed by the applicants. Aside from the attack visited on the first applicant by people who are supposedly related to the deceased on 25 December 2021, there is no other incident of fights and assaults of people between the alleged different factions. There is also no evidence that the situation at Mampempeni is still volatile two months after the fact of the commission of the offences charged.
- [34] It is curious that although the investigating officer states that the first applicant assaulted the mother of the deceased as well as the brothers of the complainant during the alleged commission of the offences, no confirmatory affidavits were filed on behalf of the people who were allegedly assaulted by the first applicant during the commission of the offences. The evidence of the investigating officer in this regard is impermissible inadmissible evidence. Also, no one from the Mampempeni or from Sigcaweni where the applicants hail from has filed an affidavit attesting and confirming what the investigating officer states is a declaration of war between the 'warring'

factions at Mampempeni. For these reasons, I am not persuaded that the applicants will endanger public safety if admitted to bail.

Applicants have failed to prove exceptional circumstances

- [35] The Crown contends that the applicants are not charged with murder simpliciter. According to the Crown, the murder herein was planned and premeditated by the applicants who were acting in execution of a common purpose.
- [36] If an accused person is charged with premeditated murder the law requires that he should produce proof, on a balance of probabilities that exceptional circumstances exist which in the interest of justice permit his release⁷. In view of its seriousness, the offence of premeditated murder is accompanied by severe penalties. It is apparent therefore that section 96(12)(a) of the Criminal Procedure and Evidence Act as amended is aimed at curtailing and placing stringent measures on the release on bail pending trial for the offence of pre-meditated murder. This, the Act does through placing an onus of proof upon the accused as well as requiring that he adduces evidence on a balance of probabilities which satisfies the court that exceptional circumstances exist which in the interest of justice permit his release.
- [37] The applicants herein have seriously challenged the Crown's allegation that there is a strong case against them. They have shown by adducing evidence that the Crown's case against them is subject to serious doubt. They have drawn the court's attention to material aspects on the merits of the case, that they allege are factually incorrect. Applicants aver that the tragic events leading to the death of the deceased and the assault of the complainant were

⁷ Section 96(12)(a) of the Criminal Procedure and Evidence Act, 1938 as amended

not pre meditated in as much as they were the result of a community meeting which was convened to discuss the problem of stock theft in the community. The meeting was not convened to question and assault the complainant and deceased. The assault of the complainant and deceased seems to have been fueled by the discovery of two goats in a motor vehicle in which complainant was a passenger.

[38] The applicants state that they were present at the community meeting and some say that they participated in the interrogation of the complainant who, incidentally was found in a motor vehicle which was transporting two goats without a livestock permit. All applicants have denied assaulting the deceased and the complainant. They argue, not in so many words that the Crown's case against them is weak and would probably result in their acquittal during the trial.

[39] I am satisfied on a conspectus of the evidence presented before me that exceptional circumstances consistent with the interests of justice have been established by the applicants warranting their release on bail.

[40] In the result, the order is as follows:

Applicants are granted bail on the following conditions:

- 1) That the first applicant, Johannes Mbango Fakudze is admitted to bail in the sum of E50 000.00 (fifty thousand Emalangen). Applicant is required to pay E10 000.00 (ten thousand Emalangen) cash and provide surety for E40 000.00 (forty thousand Emalangen) before being released from custody.
- 2) That the first applicant's passport and or travel document shall be handed over to the investigating officer at Siteki police station and the

applicant is precluded from applying for issuance of any new or similar document until completion of trial.

- 3) The first applicant should not interfere with Crown witnesses.
- 4) The applicant should report at Nhlangano Police station on the last Friday of every month commencing 25 March 2022 between the hours of 8am and 4pm. The investigating officer 5709 Detective Constable Ndumiso Calvin Myeni is to coordinate this arrangement with the police at Nhlangano Police station.
- 5) The applicant should not commit any criminal offence during the period that he is out on bail.
- 6) The applicant shall appear in court whenever he is called upon to do so.
- 7) The applicant will reside in Manzini if off duty in the custody of Joel Dlamini until the matter is finalized.
- 8) The applicant is ordered not to return to Mampempeni without the leave of the High Court.
- 9) Any application for variation of any of the above conditions must be made to the High Court.

The second applicant-Mlungisi Quinton Majanana Fakudze

- 1) The second applicant Mlungisi Quinton Majanana Fakudze is admitted to bail in the sum of E50 000.00 (fifty thousand Emalangeni). The applicant is required to pay E10 000.00 (ten thousand Emalangeni) cash and provide surety for E40 000.00 (forty thousand Emalangeni) before being released from custody.
- 2) That the second applicant's passport and or travel document shall be handed over to the investigating officer at Siteki police station and the

applicant is precluded from applying for issuance of any new or similar document until completion of trial.

- 3) That the applicant should not interfere with Crown witnesses.
- 4) The applicant is released to the custody of his sister Dumsile Dlamini
- 5) The applicant should report at Siteki police station on the last Friday of every month commencing 25 March 2022 between the hours of 8am and 4pm.
- 6) The applicant should appear in court whenever he is called upon to do so.
- 7) The applicant is ordered not to return to Mampempeni without leave of the High Court.
- 8) Any application for the variation of any of the above conditions must be made to the High Court.

The third applicant-Sandziso Fakudze

- 1) He is admitted to bail in the sum of E50 000.00 (fifty thousand Emalangeni). The applicant is required to pay E10 000.00 (ten thousand Emalangeni) cash and provide surety for E40 000.00 (forty thousand Emalangeni) before being released from custody.
- 2) The third applicant's passport and or travel document shall be handed over to the investigating officer at Siteki police station and the applicant is precluded from applying for issuance of any new or similar document until completion of trial.
- 3) He should not interfere with Crown witnesses.
- 4) Applicant will relocate to Duze where he will live with his aunt.
- 5) The applicant shall report at Manzini police station on the last Friday of every month commencing 25 March 2022 between the hours of

8am and 4pm. The investigating officer 5709 Detective Constable Ndumiso Calvin Myeni is to coordinate this arrangement with the police at Manzini police station.

- 6) The applicant will appear in court whenever he is called upon to do so.
- 7) The applicant is ordered not to return to Mampempeni without leave of the High Court.
- 8) Any application for variation of any of the above conditions must be made to the High Court.

Fourth Applicant-Mfanasibili Bongani Fakudze

- 1) The fourth applicant is admitted to bail in the sum of E50 000.00 (fifty thousand Emalangeni). The applicant is required to pay E10 000.00 (ten thousand Emalangeni) cash and provide surety for E40 000.00 (forty thousand Emalangeni) before being released from custody.
- 2) That the fourth applicant's passport and or travel document shall be handed over to the investigating officer at Siteki police station and the applicant is precluded from applying for issuance of any new or similar document until completion of trial.
- 3) The applicant should not interfere with Crown witnesses.
- 4) The applicant should report at Piggs Peak police station on the last Friday of every month commencing on 25 March 2022 between the hours of 8am and 4pm. The investigating officer 5709 Detective Constable Ndumiso Calvin Myeni is to coordinate this arrangement with the police at Piggs Peak police station.
- 5) The applicant is released to the custody of his maternal grandparent Phetsile Jingisile Khumalo at Ndzingeni.

- 6) The applicant shall appear in court whenever he is called upon to do so.
- 7) The applicant is ordered not to return to Mampempeni without the leave of the High Court.
- 8) Any application for variation of any of the above conditions must be made to the High Court.

Fifth applicant-Bheki Sonboy Tsabedze

- 1) The fifth applicant is admitted to bail in the sum of E50 000.00 (fifty thousand Emalangeni). The applicant is required to pay E10 000.00 (ten thousand Emalangeni) cash and provide surety for E40 000.00 (forty thousand Emalangeni) before being released from custody.
- 2) That the fifth applicant's passport and or travel document shall be handed over to the investigating officer at Siteki police station and the applicant is precluded from applying for issuance of any new or similar document until completion of trial.
- 3) The fifth applicant should not interfere with Crown witnesses.
- 4) The fifth applicant is to be released to the custody of his uncle-Mabuya Tsabedze at Ntondozi
- 5) The applicant should report at Malkerns Police station on the last Friday of every month commencing 25 March 2022 between the hours of 8am and 4pm. The investigating officer 5709 Detective Constable Ndumiso Calvin Myeni is to coordinate this arrangement with the police at Malkerns Police station.
- 6) The applicant should appear in court whenever he is called upon to do so.

- 7) The applicant is ordered not to return to Sigcaweni without leave of the High court.
- 8) Any application for variation of any of the above conditions must be made to the High Court.

The sixth applicant-Daniel Boy Maseko

- 1) The sixth applicant is admitted to bail in the sum of E50 000.00 (fifty thousand Emalangeni). The applicant is required to pay E10 000.00 (ten thousand Emalangeni) cash and provide surety for E40 000.00 (forty thousand Emalangeni) before being released from custody.
- 2) That the sixth applicant's passport and or any travel document shall be handed over to the investigating officer at Siteki police station and the applicant is precluded from applying for issuance of any new or similar document until completion of trial.
- 3) That the sixth applicant shall not interfere with Crown witnesses.
- 4) That the applicant is released to the custody of his sister Esther Maseko of Vusweni.
- 5) The applicant should report at Piggs Peak police station on the last Friday of every month commencing on 25 March 2022 between the hours of 8am and 4pm. The investigating officer 5709 Detective Constable Ndumiso Calvin Myeni is to coordinate this arrangement with the police at Piggs Peak police station.
- 6) The applicant shall appear in court whenever he is called upon to do so.
- 7) He is ordered not to return to Mampempeni without leave of the High court.

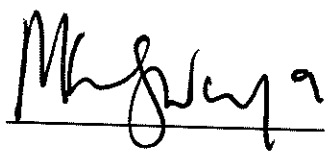
- 8) Any application for variation of any of the above conditions must be made to the High Court.

Seventh applicant-Nkosinathi Mchumanisi Fakudze

- 1) The seventh applicant is admitted to bail in the sum of E50 000.00 (fifty thousand Emalangeneni). The applicant is required to pay E10 000.00 (ten thousand Emalangeneni) cash and provide surety for E40 000.00 (forty thousand Emalangeneni) before being released from custody.
- 2) That the seventh applicant's passport and or travel document shall be handed over to the investigating officer at Siteki police station and the applicant is precluded from applying for issuance of any new or similar document until completion of trial.
- 3) The seventh applicant should not interfere with Crown witnesses.
- 4) The applicant should report at Matsapha police station on the last Friday of every month commencing on 25 March 2022 between the hours of 8am and 4pm. The investigating officer 5709 Detective Constable Ndumiso Calvin Myeni is to coordinate this arrangement with the police at Matsapha police station.
- 5) The applicant will reside at Matsapha pending finalization of the matter.
- 6) The applicant will appear in court whenever he is called upon to do so.
- 7) The applicant is ordered not to return to Mampempeni without leave of the High Court.
- 8) Any application for variation of any of the above conditions must be made to the High Court.

Eighth applicant-Bhekisisa Phoro Fakudze

- 1) The applicant is admitted to bail in the sum of E50 000.00 (fifty thousand Emalangeni). The applicant is required to pay E10 000.00 (ten thousand Emalangeni) cash and provide surety for E40 000.00 (forty thousand Emalangeni) before being released from custody.
- 2) That the eighth applicant's passport and or travel document shall be handed over to the investigating officer at Siteki Police station and the applicant is precluded from applying for issuance of any new or similar document until completion of trial.
- 3) The applicant should not interfere with Crown witnesses.
- 4) The applicant should report at Tshaneni police station on the last Friday of every month commencing on 25 March 2022 between the hours of 8am and 4pm. The investigating officer 5709 Detective Constable Ndumiso Calvin Myeni is to coordinate this arrangement with the police at Tshaneni police station.
- 5) The applicant will reside at Tshaneni pending finalization of the matter.
- 6) He shall appear in court whenever he is called upon to do so.
- 7) He is ordered not to return to Mampempeni without leave of the High Court.
- 8) Any application for variation of any of the above conditions must be made to the High Court.



M. S. LANGWENYA

JUDGE OF THE HIGH COURT

For the Applicants:

Mr B. Xaba

For the Respondents:

Ms N. Dlamini.