



IN THE HIGH COURT OF ESWATINI
JUDGMENT

Case No. 277/2021

HELD AT MBABANE

In the matter between:

ZOLANI A. MTHIYANE

and

THE KING

Neutral Citation: Zolani A. Mthiyane vs The King (277/21) [2021] SZHC 177
(05/10,2021)

Coram: J.M. MAVUSO J,

Heard: 23rd September, 2021

Delivered : 5th October, 2021

SUMMARY: Bail application — Accused faces two counts of murder — No exceptional circumstances advanced by accused warranting his release — Accused also a flight risk.

[1] Accused appeared in person in his application for bail. He faces two counts of murder. In the first count he is alleged to have unlawfully and intentionally killed one Sithembile Mtsetfwa of Mpolonjeni area in the Hhohho district of eSwatini. On the same day, at Mpolonjeni he is alleged to have also unlawfully and intentionally murdered five year old Siphon Favour Mlotshwa.

[2] In his application for bail, he describes himself as follows:

"I am Zolani Andy Mthiyane a male citizen of South Africa in Schoemansdal and am based in Eswatini eMvumbili under the Hhohho region".

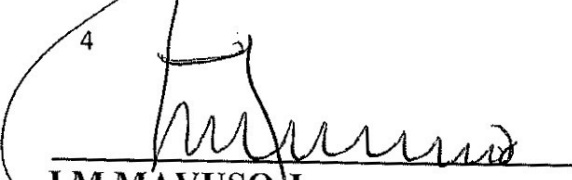
[3] Responding to an allegation contained in paragraph 6.1 of the Respondent's answering affidavit, to the effect that:

"upon realizing what he had done, the Applicant then fled the crime scene leaving for his native country, the (sic) Republic of South Africa"

Applicant, in his reply, headed "RE: RESPONDING AFFIDAVIT ON CASE NO. 277/21" states that he is:

"Zolani Mthiyane, a resident of Mvembili area in the Hhohho region under chief Solani Dlamini"

- [4] When asked by the Court how he got the South African citizenship. Applicant advised that he was assisted by his mother.
- [5] Applicant failed to explain why he sought South African Citizenship, if his intention was not to, at some point in time relocate to South Africa. Whilst the allegation on him acquiring South African citizenship, seems to have taken place prior to the murder incidents his demeanour reflected that of an individual who would simply abscond trial, defeating the interest of justice in the process.
- [6] In his application and oral presentation made after an explanation of what was expected of him in order to get bail, Applicant failed and or neglected to set out any exceptional circumstances warranting his release on bail.
- [7] Taking into account the above and the serious charges preferred against Applicant, it is not in the interest of justice that Applicant be granted bail and accordingly his application is dismissed.

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J.M MAVUSO J
HIGH COURT OF ESWATINI

For the DPP

S.
PHAKATHI

For the Applicant:

IN PERSON