

FRANK CHIMUPENI  
versus  
THE STATE

HIGH COURT OF ZIMBABWE  
MATHONSI J  
HARARE, 23 April 2015

### **Bail Application**

Applicant in person  
*T Kasema*, for the respondent

MATHONSI J: The 21 year old accused person who is unemployed, is facing a charge of theft of a motor vehicle in contravention of s 113 (1) (a) of the Criminal Law Code [*Chapter 9:23*] it being alleged that on the night of 2 February 2015 at 22 Glen Lorne Drive, Harare he stole a Toyota Hilux motor vehicle registration number ABW 7934.

The complainant had secured his motor vehicle before retiring to bed. During the night the accused and his accomplices allegedly broke the quarter glass and forced open the driver's door before hot wiring the vehicle and driving off. He was arrested on 4 February 2015 while, according to Form 242, trying to cross into Mozambique.

The applicant has now approached this court seeking his admission to bail, an application strongly opposed by the state on the grounds that the applicant is likely to abscond if released on bail as he is not gainfully employed and the seriousness of the offence coupled with the overwhelming evidence against him, will motivate him to abscond. It is also said that he may interfere with State witnesses and commit further offences.

It is the conduct of the applicant in trying to cross the border into Mozambique which points to the serious risk of abscondment. This, together with the fact that he was found in possession of the stolen vehicle, means that there is strong evidence against him. Where the State case is strong this usually acts as an inducement for abscondment: *Aitken and Anor v AG* 1992 (2) ZLR 249.

There is no doubt that the applicant faces a serious charge and if convicted he is likely to be imprisoned for a long time adding to the risk that he may not want to stand trial.

I conclude therefore that the applicant is not suitable for bail.

The application is hereby dismissed.

*National Prosecuting Authority*, respondent's legal practitioners