

THOMPSON RUNYOWA
versus
THE STATE

HIGH COURT OF ZIMBABWE
NDEWERE J
HARARE, 23 March 2018

Bail Application

E. Samudombe, for the applicant
A. Masamha, for the respondent

NDEWERE J: The allegations are that on 19 February 2018, the applicant and accomplices who are still at large waylaid complainant in Rusape while he was on his way from Chipinge. They trailed him in a Toyota Wish AEI 4416 and blocked him between Harare and Marondera. They robbed him, took over his car and drove to his residence in Belgravia, Harare with the intention to continue the robbery. When they got to Belgravia, they faced resistance from complainant's armed guards and they fled the scene.

The common cause facts are that applicant was together with the accomplices. The car which was used for transportation of the accomplices a Toyota Wish AEI 4416 is his car. He was present in the car and he heard the discussions between the complainant and the accomplices. He was arrested near the scene of the robbery and indeed, at the time of arrest, his Toyota Wish was still at the robbery scene. The applicant was also identified from the CCTV footage.

The applicant's accomplices are still at large. The state fears that if applicant is released, he may interfere with investigations or team up with the accomplices and commit similar offences.

The weapons used in the robbery have not yet been recovered and some of the stolen property is yet to be recovered. Applicant may assist in its disposal if released on bail. The state also said the applicant is facing very serious charges where a lengthy custodial sentence is likely

if convicted and this may induce him to abscond if released on bail. The state submitted that the evidence against the applicant is overwhelming, making a conviction more likely.

Applicant admits being at the scene; admits owning the Toyota Wish used during the commission of the offence and admits that he appears in the CCTV footage. His only point of departure is that he had just been hired and was not involved in the robbery. However, there was no evidence to confirm that he had been hired. He is not a registered taxi or commuter operator; there was no proof of the request to hire and no proof of payment of the hire charges. There was just his bare assertion that he was a hired transporter. There is evidence of exchange of gunfire between the robbers and the complainant's guards; yet despite that gun fire, the applicant remained in the company of the robbers. He did not escape.

Any reasonable person who was a mere *bona fide* person owning the hired car would have escaped at the sound of gunshots; more so if such person had remained in the car throughout and did not participate. Such a bona fide hired transporter would run for his life. The fact that applicant did not run away is confirmation that he was part of the robbers.

He is the only one who has been apprehended so far. His accomplices are still on the run. The guns used in the robbery have not been recovered. Some of the stolen property has also not been recovered. In view, of the above, the state's fears that if he is released he will abscond and interfere with investigations and recovery of the weapon(s) and property are justified. The fear that he may team up with his accomplices and commit other similar crimes are also justified. The offence is indeed very serious and the evidence against him, which include his own admissions is overwhelming and a conviction and a lengthy custodial sentence is likely. His own defence is very weak as illustrated above.

There are too many risks to the administration of justice if applicant is released on bail. Therefore it is best that he remains in custody and await his trial whilst in custody.

Samundombe & Partners, applicant's legal practitioner
National Prosecuting Authority, respondent's legal practitioner