

SEEDAT YUNUS FAKIR IBRAHIM
versus
THE STATE

HIGH COURT OF ZIMBABWE
BHUNU J
HARARE, 5 March 2015 and 24 March 2015

Bail Pending Appeal

T K Hove, for the applicant
T Mapfuwa, for the respondent

BHUNU J: This is an application for bail pending appeal against both conviction and sentence. The accused was charged and convicted of 3 counts of fraud during the period extending from June 2010 to August 2010. He embarked on a spree of defrauding shop seekers of their hard earned money. He made 3 prospective shop seekers pay a total of US\$57 000-00 rentals for non-existent shops.

The first complainant was defrauded of US\$22 000-00, the second US\$20 000-00 and the third one US\$15 000-00 making a total of \$57 000-00 of which nothing was recovered. Initially he was appealing against both conviction and sentence. He has however since abandoned his appeal against conviction. He is now only appealing against sentence.

Undoubtedly the offences he committed are serious and the amounts involved substantial by any standards. He committed the offence not once but thrice. The complainants suffered actual prejudice and he has made no attempt to make good their loss. Instead after committing the offence way back in 2010 he went into hiding until he was traced and caught.

His behaviour was reprehensible and to that extent his moral blameworthiness was of a very degree indeed. On those facts he was sentenced to 15 years imprisonment of which 3 years was suspended for 5 years on the usual conditions of good behaviour. A further 6 years imprisonment was suspended on condition of restitution.

While at first glance the sentence may look excessive, it is unthinkable that any reasonable court will sentence him to a non-custodial sentence on appeal. For that reason the

sooner he starts serving the better as the presumption of innocence no longer operates in his favour and his prospects of success on appeal are pretty deem indeed. That being the case, the risk of abscondment to evade justice cannot be excluded.

It is accordingly ordered that the application for bail be and is hereby dismissed.

TK Hove & Partners, applicant's legal practitioners

The Prosecutor General's Office, respondent's legal practitioners