

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal
Case No. 22/299 SC/CRML

PUBLIC PROSECUTOR

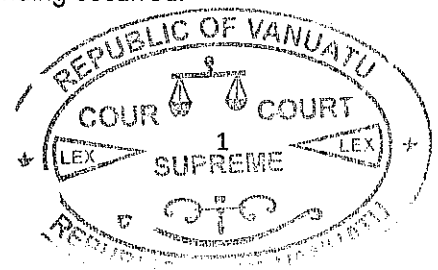
v

RICHARD HARRY

Date of Hearing: 16 February 2022
Before: Justice V.M. Trief
In Attendance: Public Prosecutor – Mr D. Boe, via video link from Luganville Court House
Defendant – Mr J. Garae, via video link from Luganville Court House

JUDGMENT

1. Mr Harry seeks bail. Prosecution opposed the application.
2. Mr Harry is charged with intentional homicide. The alleged victim was his wife.
3. Mr Harry was remanded on 27 December 2021. Mr Garae submitted that it was unfair to have spent 52 days in custody awaiting completion of the Police investigation, given his Constitutional rights to a fair hearing, within a reasonable time, and to be presumed innocent until proven guilty. Isaac Avock, a father of Mr Harry, stated in his sworn statement that he is willing for Mr Harry to reside with him at Banban Area, Luganville and to supervise Mr Harry. Mr Garae submitted that Mr Harry is willing to abide by the proposed bail conditions.
4. Mr Boe submitted that the preliminary inquiry ('P.I.') is listed on 7 March 2022, after which the Prosecution would not have an objection to bail, however the Police investigation is not yet complete. Given the seriousness of the offence and the incomplete Police investigation, bail should be refused, citing *Public Prosecutor v William* [2019] VUSC 10. Mr Boe submitted that the risk of interference with Prosecution witnesses is high as the deceased was Mr Harry's wife therefore it is likely that the Police may still need to obtain statements from family members. Mr Harry and his wife were ordinarily resident at Banban Area in Luganville and that is where it is alleged that the offending occurred.



5. Mr Harry's Constitutional rights were referred to although as noted by the Court in *Public Prosecutor v William*, such rights are not absolute.
6. *Public Prosecutor v William* is otherwise distinguishable as in that matter, one of the charges was that the defendant had attempted to interfere with a Prosecution witness.
7. The primary considerations for a bail application are the risk of interference with Prosecution witnesses, the risk of the defendant offending whilst on bail, and whether he will attend Court when required.
8. The criminal allegations against Mr Harry are extremely serious. The offence if premeditated is punishable by life imprisonment.
9. The offending is alleged to have occurred in Luganville. Mr Harry is seeking release on bail to reside in Luganville. The Police investigation is ongoing with the P.I. already listed on 7 March 2022. The alleged offending occurred in a domestic relationship hence family members are likely witnesses. In the circumstances, I assessed the risk of interference with Prosecution witnesses as too high and therefore declined the application for bail.
10. A fresh application can be made on the basis of a change of circumstances.

**DATED at Port Vila this 16th day of February 2022
BY THE COURT**

..... *VM Trief*
Justice Viran Molisa Trief

