

BRC 3424/25

PCN 10783/25 (District Court of Port Louis South)

The Bail and Remand Court

In the matter of:-

Maminiaina RAVATOMANGA

Applicant

v/s

Police

Respondent

RULING:-

1. The applicant is provisionally charged:
 - (i) under counts 1 and 2: with the offence of money laundering
 - (ii) under count 3: with the offence of conspiracy
2. He was legally represented at the bail hearing, and the case for the prosecution was conducted by counsel assisted by the police prosecutor.

Grounds of objection

3. The police are objecting to the applicant being granted bail on the following grounds:
 - (i) risk of absconding
 - (ii) risk of interfering with witnesses and tampering with evidence

Case for the respondent

The enquiry

4. The prosecution called the main enquiring officer ("E.O."), Chief Investigator Jokhoo posted at the Financial Crimes Commission ("FCC"). He explained the circumstances in which the FCC initiated the enquiry in the present matter.



5. Following the landing of a private jet at SSR international airport in the early morning of 12.10.2025 under suspicious circumstances, information was received regarding the identities of the passengers on board, which included the former prime minister of Madagascar, the applicant and his family members, and this occurred in the aftermath of a change of regime in Madagascar. The FCC was informed that they had left Madagascar to avoid arrest or investigation into suspected acts of corruption, and this was also reported in the media
6. In the early morning of 13.10.2025, the FCC initiated a preliminary investigation, and began gathering intelligence and evidence. Later that afternoon, a Malagasy investor attended the FCC offices in person and gave a written statement alleging that the applicant is suspected to be involved in various acts of corruption across different fields. He produced several documents referring to the applicant's involvement in suspected acts of corruption, including a document from France relating to an investigation by the French authorities concerning the applicant for illegal trafficking of rosewood.
7. As a result of the FCC's investigation, the French authorities reopened an investigation that had previously been closed due to a lack of cooperation from the Malagasy authorities. The applicant was arrested on 24.10.2025; however, owing to his health condition, he was brought before the court for the lodging of provisional charges only on 06.11.2025. Seven statements were recorded from the applicant, the most recent dated 16.12.2025.

The applicant's arrest

8. The E.O. then went on to explain the facts and circumstances which led to the applicant's arrest.
9. During the first week of the investigation, the FCC undertook several actions, including applying for disclosure and attachment orders. Searches were conducted at the premises of various management companies to secure extensive documentation relating to entities in which the applicant holds interests. They also searched the premises of individuals connected to those entities or otherwise linked to the applicant. Digital devices were seized, forensically examined by the FCC's digital forensic laboratory, and the resulting reports were analysed. Documents were promptly obtained from financial institutions, analysed and several individuals were interviewed.

The FCC informally collaborated with the French authorities, the FBI and the IACCC during the investigation.

10. A forensic examination of the mobile phone of Mr. David Jean Christian Thomas revealed evidence of a meeting between the applicant and the then commissioner of the FCC, which primarily concerned the investigation the FCC had initiated against the applicant.
11. The FCC interviewed two Malagasy nationals, namely the recently appointed Minister of Justice of Madagascar and a former Minister of Environment. They both provided written statements, detailing the applicant's involvement in various acts of corruption across carious fields in Madagascar. Following these statements, the FCC identified several predicate offences as follows:
 - (i) the illegal sale of five Boeing 777 aircrafts to Iran, while the country was subject to US and European sanctions. The FBI interviewed an Indian national living in Madagascar, whose company was involved in these transactions. He explained how the registration certificates of the five aircrafts were forged in Madagascar and he implicated the applicant as having used his influence upon public officials and a Minister, in return for commissions. The FCC holds a recording of this interview. Through a disclosure order, the FCC obtained details of 15,000 financial transactions across 105 bank accounts linked to the applicant and his companies in Mauritius. Transactions of interest involving specific entities and jurisdictions of interest were identified, leading to request of information by way of mutual legal assistance, while further information continues to be gathered locally from financial institutions
 - (ii) the applicant acted as an administrator for entrepreneurs involved in the export of litchis from Madagascar. Documentary evidence indicates that he abused this position to the detriment of competitors in relation to the allocation of export quotas on vessels. The FCC was informally informed by the French authorities that two French nationals, who were the directors of entities incorporated in Mauritius, are being investigated and will be tried in France. The applicant is the ultimate beneficial owner of the entities involved in the litchi transactions and a signatory to their bank accounts in Mauritius



(iii) as regards the trafficking of rosewood, an investigation was opened in 2011 in Mauritius by the former ICAC, following the seizure of seven containers of rosewood, which is a prohibited item for trade in Madagascar. The customs papers were falsified to conceal the nature of the goods and the destination country. The investigation was discontinued in 2013 due to a lack of cooperation from the Malagasy authorities. It has since recently been reopened by the FCC, based on information indicating the applicant's involvement, including the arrest and conviction of an employee of Sodiat Group, a Malagasy entity of which the applicant is the executive director. Furthermore, the former Minister of Environment has stated that the applicant is highly suspected of orchestrating these illegal transactions. The FCC has also found messages, following the analysis of the applicant's electronic devices, revealing the applicant's potential involvement

(iv) the FCC also identified the importation of wheat into Madagascar, through a Seychelles-incorporated company, Droms International Trading Ltd, of which the applicant is the ultimate beneficial owner. The company entered into an agreement with Mauritius Wheat and Flour Trading Limited for the setting up of a flour processing plant in Madagascar. The agreement was used to negotiate tax payments and other advantages with the Malagasy authorities, and there are indications that these advantages have been obtained through influence peddling. One of the terms of the agreement is that it can be used to negotiate the tax percentage applicable, however these taxes are fixed and are non-negotiable

12. The applicant is charged for being in possession of a significant amount of money under counts 1 and 2. In explaining the link between the predicate offences and these charges, the E.O. explained that there are multiple transactions through multiple entities over a long period of time, and pursuant to a disclosure order, the FCC obtained the financial records covering the past seven years. The applicant is linked to the illegal transactions inasmuch as he is the ultimate beneficial owner of the entities involved, he is the signatory of their bank accounts, and suspicious flows of funds were identified in his personal bank account. In addition, some entities directly involved in the illegal transactions have bank accounts in Mauritius in which suspicious transactions were noted, and the applicant is the signatory to those accounts, as evidenced by documents.



13. With respect to count 3 of the information, the FCC is in possession of documentary evidence extracted from the mobile phone of one of the protagonists following forensic examination. The FCC also has statements from several protagonists who were present at the meeting between the applicant and the commissioner, which was meant to obtain information regarding the investigation and the version of a protagonist. Whilst the applicant has acknowledged that the meeting took place, he denied any attempt to influence the commissioner. The E.O. maintained that there is strong evidence relating the applicant to the offence under count 3.

Risk of absconding

14. The applicant's daughter and son-in-law reside in Mauritius but they do not own any property here. The applicant also does not own any immovable property in Mauritius. The enquiry revealed that he owns immovable and other properties in France, which are under investigation. He holds bank accounts in various jurisdictions, including Seychelles, Dubai, France, and the BVI. His bank accounts in Mauritius are subject to an attachment order, and the FCC has been informed that his bank accounts in Madagascar have also been attached. No information is available regarding the accounts in other jurisdictions. As regards the private jet which landed, the investigation revealed that it is operated by Transocean Airway, a Madagascar-based company, of which the applicant is the ultimate beneficial owner and the company owns seven private jets.

15. The applicant does not hold a Mauritian passport and travels on diplomatic and Malagasy passports. He did not use his diplomatic passport when he came to Mauritius on this occasion and does not enjoy diplomatic immunity in Mauritius.

16. When the private jet landed, the applicant, the former prime minister of Madagascar, the applicant's sons, wife and daughters-in-law were onboard. The FCC initially instructed the PIO to notify it upon departure of all passengers. A request was later made for the sons and daughters-in-law to leave Mauritius for school admission procedures for one of the applicant's grandchildren. After the FCC agreed to the request, they left Mauritius within hours on 23.10.2025.

17. As regards the applicant's financial resources, the E.O. stated that he has unlimited financial means. The FCC has indications that entities beneficially owned by the applicant maintain bank accounts in other jurisdictions. The commission has also



received documents according to which the applicant's diplomatic status has been waived.

18. During the investigation, the FCC received a request from the Malagasy embassy in Mauritius dated 17.10.2025, requesting for the evacuation of the applicant to Reunion Island for medical reason (the note verbale was produced and marked as Document A). The ambassador has since been removed from office. The FCC has statements indicating that the applicant is closely associated with the former president of Madagascar. His travel to Mauritius on 12.10.2025 aboard the same private jet as the former Prime Minister of Madagascar demonstrates his high-level connections and there is a high risk of absconding since he helped a former prime minister to flee Madagascar. Furthermore, the applicant is also the ultimate beneficial owner of aviation companies which own private jets and aircraft.

19. As for the charges under the information, the E.O. stated that same are punishable by imprisonment and fine.

Risk of interfering with witnesses and tampering with evidence

20. The facts and circumstances of the case under count 3 show that, even before his arrest, the applicant had already started interfering with witnesses. This is evidenced by his meeting with the then commissioner of the FCC and from documentary material obtained, which indicate that he was planning to interfere with witnesses and tamper with evidence through various course of actions which were being contemplated by the FCC. Mr. Bheeky, who is mentioned under count 3 of the information, is a senior advisor of a minister and he mentioned that he held meetings at the level of the PMO and this has been confirmed.

Status of enquiry

21. The enquiry is ongoing. Statements still need to be recorded from several key witnesses, the documents sought from the mutual legal assistance are awaited, and identified suspects and witnesses must be interviewed. Given the numerous local entities and financial transactions involved, additional suspects and witnesses are expected. The FCC is currently examining 38 local entities. Even if conditions are imposed on the applicant, they will not reduce the grounds of objection, as he can contact anybody using readily available technology.

Case for applicant

22. During cross-examination, the E.O. stated that:

- (i) the applicant landed in Mauritius on 12.10.2025 at 1.00 a.m., the FCC applied for a criminal attachment order regarding the applicant and his wife's accounts and entities, and the order was issued by the Supreme Court on 15.10.2025
- (ii) on 13.10.2025, a Malagasy businessman came to the FCC and gave a statement regarding the applicant's alleged involvement in illegal practices and he remitted a document from Parquet National Financier ("PNF") dated 23.06.2017 wherein the applicant is being investigated in relation to alleged illegal practices in Madagascar such as the rosewood matter and it is partly, but not only on this basis, that the criminal attachment order was sought
- (iii) the applicant has applied for a revocation of this order and the matter is still pending before the Supreme Court. In an affidavit sworn by one Mr. Unmar, who is the E.O.'s colleague, in reply to the applicant's affidavit, it has been averred that the investigation is not solely based on the investigation initiated by the PNF
- (iv) the information contained in the document from the PNF was reiterated in the statement given by the Malagasy businessman, and same was counter verified through informal cooperation with other jurisdictions and from a search effected locally
- (v) he confirmed that the applicant's counsel communicated another document to the FCC, dated October 2023 and emanating from the PNF, wherein it was stated that the enquiry originally started by the PNF in 2016 has been "classée sans suite". In this regard, the E.O. explained that during the enquiry, they were informed that the decision to classify the investigation was taken due to lack of communication and collaboration from the Malagasy authorities and that the French authorities are now reinvestigating the allegations contained in the document
- (vi) to his knowledge, the applicant does not hold a pilot's licence or a skipper's licence
- (vii) the fact that the applicant is the administrator of Transocean Airway, which owns 7 jets, increases the risk of absconding, and moreover, the applicant's company was involved in evacuating someone from Japan and the FCC has documents to this effect
- (viii) the applicant's private jet is at SSR international airport, where it is under the control of civil aviation and is guarded by police officers



(ix) in his statement, the applicant stated that he left Madagascar because his life was in danger, and the pilot also mentioned that the applicant and the plane left Madagascar due to security reasons and his life was in danger, but this has not been verified by the FCC

(x) in his statement, the applicant confirmed that he is the authorised signatory of several bank accounts and is the ultimate beneficial owner of several entities

(xi) after perusing voluminous documents in the matter and after obtaining information from the mutual legal assistance and other sources, more statements will be recorded from the applicant. As to the time it will take to obtain the information, he stated that matters will be expedited within a short period, but he could not provide a time frame

(xii) the applicant has denied all the charges against him

(xiii) litchis are not prohibited products, the exportation of litchis from Madagascar is not prohibited and the business of wheat is not illegal

(xiv) he agreed that all the evidence has not been put to the applicant yet as the FCC is still enquiring in the matter, they are awaiting completion of analysis, obtaining complimentary information and all evidence in the matter before doing same

(xv) the Sodiat Group has 4,500 employees and according to Forbes, the applicant is the second richest man in Madagascar

(xvi) the applicant landed on 12.10.2025, he was admitted to hospital on 15.10.2025, and was brought to court on 06.11.2025. He has spent a lot of time in hospital, he underwent a surgery where two stents were introduced in his arteries, and according to a doctor's report, he has another artery which is completely blocked

(xvii) there is no evidence that between 14.10.2025 and 24.10.2015 when he was arrested, the applicant tried to flee or leave Mauritius, and he was under police physical surveillance at the time

(xviii) the information contains an address which is attributed to the applicant, at Villa Hillside, Belle Vue Harel, but this property is being rented by his son-in-law, and the applicant's wife, son-in-law, daughter and their children are currently living there

(xix) there is a prohibition order against the applicant

(xx) the applicant was not available for interviews for some time, and he attended the FCC after obtaining medical clearance

(xxi) there is a criminal attachment order on all his money in Mauritius, in the sum of Rs. 7.3 billions

- (xxii) as regards the local jurisdiction and the alleged offences of money laundering, the FCC has not yet secured all documents from the applicant and the entities
- (xxiii) there is a risk of tampering with evidence because the applicant had a meeting with the former commissioner of the FCC whilst the latter was still in post. The FCC has also found a message on the applicant's mobile phone, by way of which he informed his family member to get rid of a mobile phone which was in his custody when he arrived in Mauritius and which was fitted with a SIM card registered in Madagascar, and the FCC has also found exchange of messages with other protagonists involved in this matter. The phone number has been identified and it has been confirmed that the applicant was using that phone when he arrived in Mauritius on 12.10.2025. The applicant has been confronted with this evidence and he has denied same
- (xxiv) as regards the charge under count 3, the three other protagonists involved in the matter have been granted bail, where strict conditions not to communicate among themselves have been imposed and their statements have been recorded. The FCC initially objected to their release on bail, but ultimately waived their objection when the part of the investigation concerning their involvement was over

23. The applicant's daughter gave evidence in the present matter. She stated that she has been living at Hillside, Belle Vue, Harel, where she is renting a house since 1 year and 4 months. She produced a copy of the lease agreement (marked as Document B) and stated that she lives together with her husband, two children and mother. Her first child was born in France and her second child was born in Mauritius, and the elder child attends school here. When her father comes to Mauritius, he usually stays at her place. Her husband is a consultant and he works from Mauritius. If the applicant is granted bail, she undertook to ensure that he is always present and available to the authorities and the court as and when needed and that he will live at her place.

24. Upon being cross-examined, she confirmed that the address mentioned in Document B is in Mauritius, the lease agreement is for a duration of two years and will terminate on 14.08.2026. Before moving to this address, she previously lived in Charmoze for less than 1 year. She holds a Malagasy passport and her husband and children have French passports, and none of them hold a Mauritian passport. She confirmed that her husband and herself don't own any property in Mauritius. She conceded that if her father is granted bail, she will not be able to monitor him on a 24/7 basis. The owner



of the property where she resides is aware that her father has been provisionally charged in the present matter, but she has not informed her that he will reside with her if granted bail, and there is a possibility that she might cancel the lease agreement in such an event.

25. The applicant made a statement from the dock, and undertook to comply with all conditions that may be imposed by the court if he is granted bail. He explained that he came to Mauritius after a 'coup d'etat' in Madagascar, for security reasons. He is the Consul Honoraire of Cote D'Ivoire and Serbia, and Cote D'Ivoire has sent a note verbale to the Ministry of Foreign Affairs in Mauritius pertaining to his movement. He is not a criminal but an investor, with 4,500 employees and entities in Mauritius. His employees are suffering as they are not receiving their salaries. He has held bank accounts in Mauritius for the last 30 years and has never had any issue with the Mauritian authorities. He has a clean record in Madagascar and internationally. He is suffering from chronic health issues, he has blocked arteries and needs urgent medical treatment. He also suffers from diabetes, he lost 12 kg and is permanently stressed. He cannot stay in prison for health and security reasons. He undertook to cooperate with all the authorities for the purposes of the enquiry. He stated that these are false allegations against him and his family. He has two other cases before the Supreme Court where his accounts and those of his companies are frozen.

26. Submissions were offered by both counsel in the matter, which have been duly considered.

The Law

27. Section 4 of the Bail Act sets out the provisions under which a court may refuse to release a detainee on bail.

28. In the case of *Labonne v Director of Public Prosecutions and anor [2005 SCJ 38]*, the Supreme Court held that "... the two conflicting interests which the law of bail seeks to reconcile are, on the one hand, the need to safeguard the necessary respect for the liberty of the citizen viewed in the context of the presumption of innocence, and, on the other hand, the need to ensure that society and the administration of justice are reasonably protected against serious risks which might materialise in the event that the detainee is really the criminal which he is suspected to be."



Nature of evidence

29. As was explained by the Supreme Court in the case of ***Maloupe v The District Magistrate of Grand Port [2000 MR 264]***, the court is at this stage only concerned with the nature of the evidence against the applicant. In ***Deelchand v The Director of Public Prosecutions and others [2005 SCJ 215]***, it was held that "*The nature of the evidence is, likewise, to be related to the risk under consideration where, having regard to its type and to factors affecting its quality [without going into the details of the evidence as explained in Maloupe (supra, at para 2.2) and Labonne (supra, at para 2.2)] it is either so patently strong or weak as to have a bearing on that risk.*"

30. The E.O. has explained in details the circumstances leading to the investigation by the FCC and the applicant's arrest in the present matter. For the purpose of the present bail hearing application, the court is concerned with the nature of the evidence against the applicant. In this regard, the court has taken note of the evidence given by the E.O. in the present matter, to the effect that:

- (i) following the landing of the private jet, the FCC had information that the occupiers of the plane had left Madagascar in order not to be arrested and investigated into suspected acts of corruption
- (ii) on 13.10.2025, a Malagasy investor reported that the applicant is suspected to be involved in various acts of corruption in different fields, and he produced several documents in support, including a document from the PNF
- (iii) the FCC interviewed the Minister of Justice of Madagascar recently appointed to that post and the former Minister of Environment of Madagascar and they both gave statements explaining the applicant's involvement in several acts of corruption in Madagascar in various fields
- (iv) following these statements, the FCC identified several predicate crimes, involving the illegal sale of five Boeings 777 aircraft to Iran, the exportation of litchis from Madagascar, the trafficking of rosewood, the importation of wheat into Madagascar
- (v) the applicant is related to the predicate crimes as he is the ultimate beneficial owners of the entities involved, he is the signatory of the bank accounts of those entities, the FCC has identified suspicious flows of funds in his personal bank account, some of the entities directly involved in the illegal transactions have various bank accounts in Mauritius and suspicious transactions have been noted in their bank accounts, and the applicant is the signatory of these accounts



(vi) as regards count 3, the mobile phone of Mr. David Jean Christian Thomas contained evidence pertaining to a meeting the applicant had with the now former commissioner of the FCC, which was mainly in relation to the investigation the FCC had initiated against the applicant. The versions of several protagonists who were present during the meeting have also been recorded, and this meeting took place between the applicant and the commissioner, and it was meant to have information regarding the investigation and the version of a protagonist

31. In light of the above, the court accordingly concludes that there is sufficient incriminating evidence against the applicant on record, which is of a strong nature.

Finding

Risk of absconding

32. The court is mindful of the following observation made by the Supreme Court in the case of **DPP v Marthe [2013 SCJ 386a]** in relation to this particular risk:

"This ground which is often raised to object to bail is more complex than it may appear at first sight. It certainly requires the Magistrate to look at the past conduct of a person applying for bail based on the reasoning that such conduct is indicative of what he may be capable of doing. But, it also requires the Magistrate to make a reasonable projection of what that person may do or may be tempted to do in the future bearing in mind the more recent developments in the circumstances surrounding his case.

...

It is one thing to speak of going to the police when an enquiry, the outcome of which is as yet unknown, has just started. For all an accused party knows, the enquiry against him may reveal nothing and there would be no real reason for him to abscond at that stage. But, as and when the enquiry progresses and takes a more concrete shape against an accused, the mind-set of the latter may change when faced with the likelihood of real consequences."

33. In this regard, the court notes that the applicant was arrested on 24.10.2025 and that between 14.10.2025 and 24.10.2025, there is no evidence that he tried to flee or leave Mauritius. As explained by the E.O., the enquiry and the case have progressed in the meantime. As such, in view of the passage of time, the development in the enquiry and the case and the principles cited in the case of **Marthe** above, the applicant's frame



of mind may now have changed when faced with the likelihood of a prosecution which is now approaching.

34. This ground was also analysed in the case of *Deelchand*, where it was observed that:

5.2 The risk of absconding has to be assessed with regard to several relevant factors. Although, as stated in the last passage quoted, the seriousness of the offence may, by itself or in conjunction with some other factor such as the defendant's criminal record, give a basis for believing that the defendant will fail to surrender through fear of a custodial sentence, this factor must be viewed in conjunction with other factors which may well indicate that the defendant is unlikely to abscond.

5.3 In Neumeister v Austria (1968) 1 ECHR 91 (27 June 1968) at para 10, the European Court of Human Rights ruled that the severity of the sentence which the defendant would be likely to incur, if convicted, does not in itself justify the inference that he or she would attempt to evade trial if released from detention:

"The danger of flight cannot ... be evaluated solely on the basis of such consideration..

Other factors, especially those relating to the character of the person involved, his morals, his home, his occupation, his assets, his family ties and all kinds of links with the country in which he is being prosecuted may either confirm the existence of a danger of flight or make it appear so small that it cannot justify detention pending trial."

5.4 Considerations relevant to the risk of absconding will include the strength, weakness or absence of family, community, professional or occupational ties and financial commitments as such ties, if strong, might be strong incentives not to abscond and, if weak might increase the risk of absconding. The strength of the evidence may also be relevant because if it is likely that the charge will not be proved, the defendant may be less likely to abscond. The court must ask itself: what would be likely to motivate the applicant to abscond and what would be likely to make him refrain from absconding? Is the risk too great to be taken or is the level of risk acceptable, such that it can be taken having regard to the presumption of innocence? Can the risk at least be reduced to an acceptable level by the imposition of conditions?

35. In the present matter, the court has noted the evidence given by the applicant's daughter, where she gave an undertaking that the applicant will reside at her place if granted bail. The court has also noted the fact that there is a prohibition order against the applicant, there is no evidence that he holds a pilot's licence or a skipper's licence,



and he undertook to comply with all bail conditions in his statement made from the dock.

36. However, the above facts should be viewed in conjunction with and weighed against other factors as set out in the case of *Deelchand*. In this regard, the court has considered the strong nature of the evidence against the applicant, the total worth of the properties involved, the seriousness of the offences with which the applicant stands charged, and the severe penalty applicable in case of conviction. Furthermore, the applicant is a Malagasy national who came to Mauritius after leaving Madagascar. Save for his daughter, son-in-law and their two children, there is no evidence that the rest of his family members hold any property or have any link to Mauritius; in fact, the other sons and their wives left so as to complete school admission procedures in another country. According to the E.O., the applicant has no immovable property in Mauritius and his bank accounts in Mauritius are subject to an attachment order. He does not hold a Mauritian passport, but has a Malagasy passport and a diplomatic passport; he used his Malagasy passport to come to Mauritius, the FCC has documents which indicate that his diplomatic status has been waived, and no evidence has been adduced as to the applicant's legal status in Mauritius. The E.O. also stated that the applicant has great financial means and that he is the ultimate beneficial owner of Transocean Airways, which owns seven private jets, one of which the applicant used to come to Mauritius and which is currently at SSR international airport. In cross-examination, the E.O. also confirmed that the applicant is the second richest man in Madagascar according to Forbes.

37. In light of all the above and in line with the principles in *Deelchand* cited above, I find that these factors lend more support to the risk that the applicant may abscond if released on bail, and I find the risk of absconding to be real and plausible in the present matter.

Risk of interfering with witnesses and tampering with evidence

38. The Court in *Deelchand* observed that:

5.12 It would be preposterous to hold the view that in each and every application for bail, it would suffice that an enquiring officer should express his fear that the applicant would interfere with one or more witnesses for the accused to be denied bail on that ground. To satisfy the court that there is a serious risk of interference with a witness, satisfactory reasons, and appropriate evidence in connection thereto where

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appropriate, should be given to establish the probability of interference with that witness by the applicant. In his book "Bail in Criminal Proceedings" (1990), Neil Corre, writing from sound practical experience, points out that the risk that the applicant may "interfere with witnesses or otherwise obstruct the course of justice" is "an important exception to the right to bail because any system of justice must depend upon witnesses being free of fear of intimidation or bribery and upon evidence being properly obtained". He then goes on to point out:

"The exception's most common manifestations are in cases where:

- (a) the defendant has allegedly threatened witnesses;
- (b) the defendant has allegedly made admissions that he intends to do so;
- (c) the witnesses have a close relationship with the defendant, for example in cases of domestic violence or incest;
- (d) the witnesses are especially vulnerable, for example where they live near the defendant or are children or elderly people;
- (e) it is believed that the defendant knows the location of inculpatory documentary evidence which he may destroy, or has hidden stolen property or the proceeds of crime;
- (f) it is believed the defendant will intimidate or bribe jurors;
- (g) other suspects are still at large and may be warned by the defendant

The exception does not apply simply because there are further police enquiries or merely because there are suspects who have yet to be apprehended" (the underlining is mine).

Finally the court should consider whether the risk can be averted or reduced to an acceptable level by the imposition of conditions.

39. In the present matter, the court has noted the evidence given by the E.O., to the effect that the applicant had a meeting with the former commissioner of the FCC whilst the latter was still in post, and there is documentary evidence showing that he was planning to interfere with witnesses and tamper with evidence through various course of actions that were being contemplated by the FCC. Furthermore, they found messages on the applicant's phone where he communicated with other protagonists in this matter, and also informed his family members to get rid of a phone which was in his custody when he arrived in Mauritius. The court has also considered the nature and particulars of the offence under count 3, whereupon the applicant is provisionally charged for having wilfully, unlawfully and criminally agreed with three other persons to commit an offence of *traffic d'influence* in relation to an ongoing investigation being carried out by the



commission, which in itself potentially involves interfering with witnesses and tampering with evidence.

40. In light of the above, the seriousness of the charges against the applicant, the evidence available to the FCC, the nature of the provisional charges against the applicant, especially the charge under count 3, and the fact that the case is still under enquiry where documents are still awaited and statements are yet to be recorded from several suspects and key witnesses, the court finds that if the applicant is released on bail, there is a risk that he can interfere with the witnesses in the case and tamper with evidence.

Balancing exercise

41. The fact that there are plausible risks does not in itself mean that bail should be refused and this court has to carry out a balancing exercise between the applicant's Constitutional rights and the interests of society at large, whilst bearing in mind the principles of presumption of innocence. I will now turn to assess whether conditions may be imposed at this stage to reduce the risks of absconding, interfering with witnesses and tampering with evidence to such an extent that they become negligible. (vide **Maloupe**)

42. In carrying out the above exercise, I have considered the various conditions, such as the imposition of a surety, security and a recognisance, the requirement for the applicant to reside at a fixed place of abode and to report to the nearest police station, a curfew order, informing the police of his daily activities, having a mobile phone and remaining accessible to the police at all times, not contacting any suspect or witness in the matter.

43. However, I am not satisfied that the imposition of any conditions would be sufficient to minimise the risks of absconding, interfering with witnesses and tampering with evidence in the present matter, for the following reasons:

(i) a surety, security or recognisance will lapse in case the applicant fails to turn up to court, and he will be liable in the sum due. However, having considered the seriousness of the offence and possible heavy sentence in the eventuality of a conviction, the applicant might be more tempted to forfeit the financial aspect, in favour of his liberty, and as such these conditions might prove to be ineffective in the present matter

(ii) conditions which regulate the applicant's conduct, such as regular reporting to the police station and informing the police of his daily activities, a curfew order, having a fixed place of abode, having a mobile phone and remaining available to the authorities, will not be effective as they will not provide a 24-hour supervision on the applicant's movement, activities, and interaction with other people

44. After having taken into consideration all the above, the evidence on record, the principles and rationale of bail, the particular facts of the present matter, the personal circumstances of the applicant and after having carried out the balancing exercise, I am of the considered view that the need for the applicant to be in continued detention outweighs his right to liberty at this stage. The bail application is therefore set aside.

45. I have nevertheless taken into consideration the status of the enquiry in the present matter. As was stated by the Supreme Court in the case of ***Islam S v Senior District Magistrate, Grand Port District Court [2006 SCJ 282]***, "Bail is the rule and pre-trial incarceration the exception." The Court accordingly urges the enquiring and prosecuting authorities to exercise their diligence so that the applicant is brought to trial within the shortest delay.



K. Dwarka Davay
Senior District Magistrate
30.12.2025