

**IN THE SUPREME COURT OF BELIZE, A.D. 2020
CRIMINAL JURISDICTION**

SOUTHERN DISTRICT – STANN CREEK

INDICTMENT No. S633 of 2018

THE QUEEN

v

RENRIK PARCHUE

BEFORE: Hon. Mr. Justice Francis M. Cumberbatch

APPEARANCES: Mr. Javier Chan, Counsel for the Crown
Mr. Ronnel Gonzalez, Jr. Counsel for the Accused

TRIAL DATES: 14th of May, 2019.

JUDGMENT ON BAIL APPLICATION

[1] The Accused is charged with six counts of sexual assault and two counts of incest against his daughter Renisha Parchue aged 13 years old. Her date of birth is the 20th day of August, 2005.

[2] On the 12th day of October, 2018, Justice Adolph Lucas granted bail to the Accused in the sum of \$15,000.00 subject to the following conditions, to wit:

“ORDER

BEFORE THE HONOURABLE JUSTICE ADOLPH LUCAS

Having read the Petition and having heard Dickie Bradley, Counsel for the Petitioner, and Crown Counsel, Portia Staine-Ferguson, from the Office of the Director of Public Prosecutions, the Respondent opposed the petition, the Court though mindful that the crimes the petitioner allegedly committed are serious offences, there is no guarantee by the Respondent that the Petitioner will be tried within a reasonable time.

The Court is therefore obliged to adhere to Section 5(5) of the Belize constitution, Chapter 4 by granting the Petitioner bail in the sum of Fifteen Thousand Dollars (\$15,000.00) and one (1) surety in the like amount (Title Deed is required to be deposited).

The Petitioner must confirm with the following conditions:-

- 1. He is to attend the Magistrate Court in Dangriga, Stann Creek District, on the 5th December, 2018, at 9:00 a.m. and on any other days the Magistrate so requires him to reappear.*
- 2. He is to report to the Dangriga Police Station, Stann Creek District, every Friday commencing on 19th October, 2018, between the hours of 7:00 a.m. to 6:00 p.m. until the charges of sexual assault (six counts) and incest (two counts) are disposed of.*

3. *He is not to interfere with any of the Prosecution witnesses particularly the virtual complainant (Renisha Parchue) and her mother and potential witnesses.*
4. *He must keep (200 yards) away from the virtual complainant and her mother until the charges of sexual assault (six counts) and incest (two counts) are disposed of.*
5. *He is to remain at the premises where he is staying and living, that is to say, 3159 Wagierale Area, Dangriga until the charge of incest and sexual assault as aforesaid are disposed of.*

Bail will be revoked if the Petitioner breaches any of the foregoing conditions or if he is charged with any offence while he is on bail.

In the event the Petitioner transgresses against any of the said conditions and if he is arrested, he must be brought a Justice of the Supreme Court on the day of the arrest or on the next practicable day.

DATED the 12th day of October, 2018.

By order,

Deputy Registrar.”

- [3] On the 16th day of April, 2019, Renisha Parchue, and her mother made a report to the police at the Dangriga Police Station that the Accused had approached her at her school and requested that she drop the charges against him. She further stated that the Accused told her that she should falsely allege that it was her uncle and stepfather who molested her. She told him she would not do so as he is the one who did it.
- [4] The virtual complainant went on to state that she was shocked and afraid when she saw the Accused and that when she refused to falsely implicate her uncle and step father, his features changed and he got angry.
- [5] The virtual complainant stated that it was her school counselor one, Lena Fernandez, who was instrumental in arranging visits by her father at her school.
- [6] It was also alleged by her mother Aveline Cucul that the Accused has been contacting her through family members to offer her money to get her daughter to drop the case.
- [7] The Crown filed an application for the revocation of the Accused's bail for his breach of conditions three, four, and five aforesaid. The Accused was taken into custody and brought before the Court for the matter to be heard and determined.

The Hearing

- [8] The Court held a hearing to determine the issues herein, namely, whether the Accused has breached his bail conditions resulting in the revocation of his bail; and if so whether fresh bail should be granted or should he be remanded to prison. Attached to the Crown's application was statements given to the police by Renisha Parchue and her mother Aveline Cucul. Affidavits by Renisha Parchue and Avelina Cucul were also filed. These documents contain the facts stated and relied on by the Crown aforesaid.
- [9] The Accused filed an affidavit by Lena Fernandez, the counselor aforesaid in which she denied being involved in the meetings between the Accused and his daughter at her school. No affidavit was filed by the Accused nor did he offer to present testimony in his defence of the allegations made against him.
- [10] The Court offered Defence Counsel the opportunity to cross-examine the virtual complainant and her mother by having them summoned to attend the hearing and testify accordingly. Defence Counsel, however, acting on the instructions from his client declined the Court's offer.
- [11] I have considered the statements and affidavits from the virtual complainant, her mother, and the counselor, Lena Fernandez. I find that even before this matter had reached the Courts the virtual complainant stated that Lena

Fernandez told her not to disclose her involvement in this matter for fear of getting into trouble and losing her job. Thus, I am not surprised that in her affidavit, Lena Fernandez denied any or all knowledge of this incident as it is obvious that she would encounter some sort of disciplinary proceedings if she admits to being involved herein. Accordingly, I have rejected her affidavit.

[12] I am satisfied from the statement and affidavit of the virtual complainant that the Accused did meet with her and request that she drop the charges against him and that she should falsely implicate her uncle and stepfather in the commission of the offences for which he is charged. I am also satisfied that the Accused also reached out to Avelina Cucul to cause her to persuade her daughter to discontinue proceedings against him. As a consequence, I find that the Accused has acted in breach of his bail conditions more particularly conditions three, four, and five aforesaid.

[13] Justice Lucas ordered, "*That the bail granted to the Accused aforesaid will be revoked if the Petitioner breaches any of the foregoing conditions or if he is charged with any offence whilst he is on bail.*" This order is pursuant to the provisions of *Section 16(4)(c) of the Crime Control and Criminal Justice Act CAP 102*. Thus, having found that the Accused has acted in

breach of his bail conditions and in pursuance of the order of Lucas J, the Accused's bail is hereby revoked.

[14] On the question as to whether fresh bail should be granted, Defence Counsel urged the Court to exercise its discretion in favour of his client and to release him on bail. Counsel went on to suggest that more stringent conditions could be imposed to ensure his client's compliance with the court's orders. He further submitted that the Accused is the main breadwinner in his family and that great hardship would be suffered by them if he is remanded to custody again.

[15] The Court is aware that the grant of bail with certain conditions is not merely to ensure that the Accused person appears in Court to stand trial on its appointed date. There are conditions imposed for the protection of the witness's safety and to ensure that they are free to attend Court and present their evidence bereft of any fear of harm and/or harassment. This is clearly evidenced in the contents of conditions three and four imposed by Lucas J aforesaid.

[16] The Accused faces very serious charges for offences which carry mandatory minimum sentences of 12 years imprisonment. The prospect of spending a lengthy prison sentence is not an appealing one. Thus, there is the likelihood

of anyone facing such draconian consequences for committing the offences herein to spare no pains at avoiding a trial.

[17] The Court must also consider the safety of the witnesses particularly the virtual complainant who is just 13 years old. In her statement, she has expressed fear at seeing her father who accosted her not only to withdraw her report to the police against him but also to falsely implicate her stepfather and uncle.

[18] I find that the Accused's refusal to have the virtual complainant cross-examined is indicative of his acceptance of the contents of her statement and affidavit. Indeed he has not sought to provide any evidence either by way of affidavit or *viva voce* testimony in response to the allegations made against him.

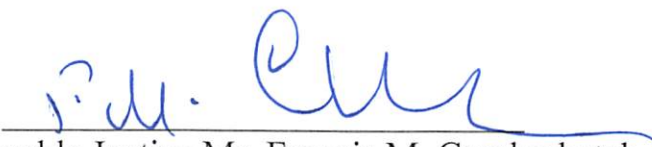
[19] The right of an Accused person to bail is trite. However, that right is not an absolute one. I find that having regard to the peculiar circumstances of this case, the Court should afford more emphasis to the safety of the main witness in this matter than to the Accused's right to bail. I find that the Accused has evinced the intention to avoid facing trial and will pursue all and any means to do so including compromising the safety of the main witness and the integrity of the trial process.

[20] The provision of the clause for the revocation of bail if the conditions are breached was not sufficient to ensure compliance with the conditions imposed by Lucas J. The draconian nature of this clause cannot be overstated; hence, I fail to see what more stringent conditions could be imposed by this Court to ensure compliance by the Accused as urged by Defence Counsel.

[21] Thus taking all of the aforesaid circumstances into consideration, I find that I will not exercise my discretion to grant fresh bail herein.

[22] Accordingly, the Accused is remanded to custody, however, his trial must be proceeded with due expedition.

Dated this **14th day of May, 2019.**


Honourable Justice Mr. Francis M. Cumberbatch
Justice of the Supreme Court