KENIAS JONGWE

versus

THE STATE

HIGH COURT OF ZIMBABWE

BHUNU J

HARARE, 24th July 2012

*Mr. Kwiriwiri,* for the Applicant

*Mr. Makoto*, for the State

**Bail Application**

BHUNU J: The applicant is a 20 year old resident of Chikowore village, Chief Chipuriro in the Guruve area. He was arrested and detained in custody on 26 June 2012 on allegations of aggravated indecent assault as defined in section 66 (11) (a) of the Criminal Law (codification and Reform) Act [*Cap. 9:23].*

The Applicant is alleged to have chased after two male juveniles aged 7 and 8 years of age as they were coming from school in the company of a friend. He is alleged to have caught up and sodomised the two boys one after the other in full view of their colleague and friend. His attempt to sodomise the 3rd boy was unsuccessful as he tripped and fell down while pursuing him.

Bail is strenuously opposed on the grounds that the offences which he is alleged to have committed are serious and attract a lengthy period of imprisonment which might prompt him to abscond. It is also feared that he might interfere with complainants and witnesses since they stay in the same village as deposed to by the investigating officer in an affidavit opposing bail.

Undoubtedly the offences are a serious abomination that attracts a severe penalty of a lengthy term of imprisonment. It appears that the State has a solid case against the accused person. The complainants know the Applicant. The offences were allegedly committed in full

view of an eye witness such that there is no question of mistaken identity. The complainants and their witnesses are more likely than not to be telling the truth as no cogent reason has been suggested for them to lay false allegations against the applicant. Their allegations are amply corroborated by medical affidavits to the effect that they were sexually molested as alleged.

The complaints were made within a reasonable time of 4 days having regard to their tender ages.

Counsel for the Applicant submitted from the bar that the Applicant is unlikely to interfere with evidence because he lives in a village about 8 kilometres from the witnesses. That submission finds no favour with this court in the light of the investigating officer’s evidence to the contrary. Both complaints filed statements to the police stating that they knew the Applicant well as their neighbour.

In light of the foregoing the Court is inclined to share the State’s apprehension that the Applicant is likely to abscond or interfere with the due administration of justice if granted bail. That being the case, it is virtually unsafe to release him on bail in the prevailing circumstances.

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

*Hungwe and Partners*, the Applicant’s Legal Practitioners.

The Attorney general’s Office, the Respondent’s Legal Practitioners.