

Summary: Olantunji Samson Abdul v State

*Bail – appeal against refusal — court misdirected itself – exercise of discretion – theft – inadmissible evidence – hearsay – accused is a flight risk – interest of justice*

This is an appeal against the refusal of bail by the Regional Magistrate sitting in the Special Commercial Crimes Court, at Palmridge on 30 October 2019. The appellant was charged with theft of R7 856, 000.00 and contraventions of sections 4 and 6 of the Prevention of Organised Crimes Act 121 of 1998.

The appellant argued that the court *a quo* misdirected itself on a number of issues. First, the court *a quo* admitted evidence when objections were raised and relied on such evidence to refuse bail and accepted such evidence as indicative of the appellant's propensity to commit crime. Second, the co-accused was the lawful account holder and the State had conceded that the appellant and the co-accused were unknown to each other. Third, the suggestion of imminent charges was premature as the investigation had not been complete and the appellant was facing only one matter. Fourth, the appellant was not a flight risk as he has businesses in Sandton.

The State argued that in a bail application ordinarily inadmissible evidence such as hearsay may be received. The State also argued that the appellant was a flight risk as he had access to different passports. He had a valid passport and still presented a copy of a Ghanaian passport bearing his photo with a different name.

The appeal court held that, having considered the evidence placed before the *court a quo* as well as the further submission made by the appellant and the State, it is not persuaded that the *court a quo* erred or misdirected itself in exercising its discretion. The appeal court further held that the appellant is a flight risk and there appear to be a propensity to commit similar crimes. Accordingly, it was not in the interests of justice that he be released. The appellant's application for bail on appeal was dismissed with costs.