IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)

Case No: A02 / 2022

REPORTABLE: NO
OF INTEREST TO OTHER JUDGES: NO
REVISED.
DATE: 14 March 2022

In the matter between:

WELCOME NKANYISO MAFUNDA Applicant

and

THE STATE Respondent

JUDGMENT

WILSON AJ:

1 The applicant, Mr. Mafunda, faces nine charges, including murder, conspiracy to murder, aggravated robbery and unlawful possession of a firearm. His trial on these charges commenced on 28 April 2016, and is proceeding in this division. For reasons that are not entirely clear from the papers before me, the trial has so far lasted 5 years, and the State has yet to close its case. Mr. Mafunda has been in custody for over 7 years.

2 Mr. Mafunda now seeks release on bail. This is the first and only bail application he has brought that has reached a hearing.

The progress of this application

3 There was no dispute between the parties that this application falls to be determined under section 60 (11) (a) of the Criminal Procedure Act 51 of 1997 ("the Act"). That being so, the onus is on Mr. Mafunda to adduce evidence that satisfies me that there are exceptional circumstances which permit his release on bail. In a trial that has lasted 5 years, and in which the strength or weakness of the State's case must by now be clearly ascertainable, that might seem like an easily determined question.

4 However, the application has not proceeded as smoothly as it should have. When the matter first came before me on 21 January 2022, Mr. Nkuna, who appears for Mr. Mafunda, sought leave to supplement his client's threadbare founding affidavit. It was clear that Mr. Mafunda had not made many of the averments necessary to sustain a credible claim for release. It was plainly in the interests of justice that he be given an opportunity to supplement his papers. I granted him leave to do so by 1 February 2022. The State was to file its answering affidavit by 8 February 2022, and the matter was to be heard on 11 February 2022.

5 Mr. Mafunda's papers were supplemented in due course. But the supplementation was unfortunately bogged down in extravagant allegations of prosecutorial misconduct alleged to have been committed during the trial. It was also replete with suggestions of a police conspiracy to keep Mr. Mafunda in prison for as long as possible.

6 There was no real factual basis laid for these allegations, but that did not stop Mr. Nkuna repeating and amplifying them in argument. Mr. Mafunda also alleged a wide-ranging police and prosecutorial conspiracy against him when he eventually came to give evidence.

7 In and amongst these allegations, though, were the contentions I would normally expect to see in a bail application dealing with the exceptional circumstances Mr. Mafunda says are present. There were also facts which tend to support the inference that Mr. Mafunda will stand his trial, and that he will not interfere with police investigations and witnesses.

8 The State's answering papers, which emanated from Detective Sergeant Mogola, were much more concise. However, they failed, for the most part, to illuminate the critical issues before me. They were especially poor when it came to summarising the evidence led and to be led against Mr. Mafunda at trial. They were filed, unsigned, on 8 February 2022. They consisted, for the most part, of bare denials of Mr. Mafunda's case, or assertions advanced in opposition to it that lacked an account of the primary facts necessary to support them.

9 When the matter was called before me again on 11 February 2022, I took these difficulties up with Mr. Nkuna, and with Mr. Khumalo, who appeared for the State. I was concerned that the state of the papers did not reflect a genuine appreciation of the fact that a person's liberty was at stake, and that little had been done assist me in isolating the issues it is necessary for me to decide in this application. I was particularly concerned that the State had not been able to obtain a detailed affidavit summarising the evidence in an investigation and prosecution that had been ongoing for several years. The lack of factual substance in its affidavit was incongruent with the State's vehement assertions that there is a strong case against Mr. Mafunda, and that, if released on bail, he would likely not stand his trial and would interfere with State witnesses.

10 It was nonetheless clear that there were substantial and wide-ranging disputes of fact on the affidavits, and that oral evidence would have to be led to resolve them. Accordingly, with the acquiescence of Mr. Nkuna and Mr. Khumalo, I postponed the matter to 18 February 2022 for the hearing of that evidence from Detective Sergeant Mogola and Mr. Mafunda. I gave the State leave to supplement its papers by 16 February 2022. I directed that the parties' affidavits would stand as their evidence in chief. It was understood by all concerned that the hearing on 18

February would be taken up by the cross-examination and re-examination of these witnesses.

11 On 18 February 2022, the matter was called again. The parties could not agree on which witness should testify first. Given that the central issue in this application concerns the strength of the State's case, I directed that Detective Sergeant Mogola should first be cross-examined by Mr. Nkuna.

12 Mr. Khumalo objected to this ruling on two bases. First, he argued that the onus in this application is on Mr. Mafunda, and that as a result he should testify first. Second, Mr. Khumalo submitted that before Mr. Nkuna cross-examined Detective Sergeant Mogola, he should have the opportunity to lead her evidence in chief.

13 I overruled both these objections. The first objection confuses the onus of proof with the duty to begin. Although the onus is on Mr. Mafunda to satisfy me that there are exceptional circumstances justifying his release on bail, that does not imply an unbreakable rule that he must give his evidence first. In the circumstances of this case, the parties had already exchanged (and supplemented) their papers. Mr. Mafunda had addressed the onus on him in those papers by attempting to show that the State's case against him is weak. The matter not being resolvable on the papers, witnesses had to be called.

14 The central issue before me is the strength of the State's case. Mr. Mafunda could not say much more about that than he had already said in his founding affidavits. Detective Sergeant Mogola had sought to buttress the State's case in her answering papers. Only she could really give the evidence necessary to establish the nature of the case against Mr. Mafunda. It made sense that she would face cross-examination first.

15 I accept that there are decisions which imply the contrary (see, for example, the decision of Binns-Ward AJ in *S v Pothern* 2004 (2) SACR 242 (C) at para 60). But even they tend to accept that there is no hard and fast rule that the accused must testify first. Indeed, in *Pothern*, while expressing disapproval of the Magistrate's

decision to have the investigating officer testify first, Binns-Ward AJ accepted that "nothing really turned on it in the end".

16 It has often been held that bail proceedings have a unique procedural character, which incorporate a duty on a court to establish the facts relevant to its decision, by inquisitorial means if necessary (see, for example, section 60 (3) of the Act itself; the decision of Mokgoatlheng J in *Majali v S* [2011] ZAGPJHC 74 (19 July 2011) at para 19; and the decision of Slomowitz AJ in *S v Schietekat* 1998 (2) SACR 707 (C) at 713H-J). In these circumstances, the order in which evidence is heard may often need to be tailored to explore, in a logical fashion, the specific issues that arise in a particular case. In this matter, I needed to hear from the investigating officer first, because it was necessary for me to develop an impression of the strength of the State's case.

17 The unique character of bail proceedings does not, of course, justify a process that is unfair or in breach of statute. Having been given the opportunity to do so, Mr. Khumalo could not identify any basis on which hearing from Detective Sergeant Mogola first would be unfair or unlawful. That is, ultimately, why his first objection was dismissed.

18 Mr. Khumalo's second objection is hard to reconcile with the State's acceptance that Detective Sergeant Mogola's affidavits would stand as her evidence in chief. Mr. Khumalo argued that allowing her affidavits to stand as her evidence in chief did not mean that Detective Sergeant Mogola's evidence could not be led in chief. But that is exactly what it meant. Otherwise, there would have been no point in the direction at all.

19 Detective Sergeant Mogola was cross-examined and re-examined on 18 and 23 February 2022. Mr. Khumalo's re-examination was unduly lengthy and appeared to be motivated by a desire to re-assert much of what was already in the affidavits. As a result, not much of the evidence elicited in it can be given any significant weight. Mr. Mafunda was cross-examined on 25 February 2022. He was not re-examined.

20 Both Sergeant Mogola's and Mr. Mafunda's evidence was marked by repeated and trenchant disagreements between Mr. Nkuna and Mr. Khumalo about the nature of the evidence led against Mr. Mafunda at trial. Both Mr. Khumalo and Mr. Nkuna are involved in Mr. Mafunda's trial. Each accused the other of attempting to mislead me as to the nature of that evidence. Mr. Mafunda conceded in cross-examination that some evidence had been led that Mr. Nkuna firmly submitted had not, in fact, been led.

21 This presented a difficulty. I was reluctant to rely on Mr. Mafunda's concessions, if they were based on a misguided appreciation of the evidence led against him during a 5-year trial. Happily, the trial is accompanied by a running transcript. I directed counsel to extract from the transcript the passages that, in their view, tended to demonstrate the correctness of their interpretation of the evidence. I asked that the portions of the transcript to be placed before me be agreed between counsel and attached to a schedule presented to me, together with counsel's written argument. Mr. Nkuna ultimately carried out this task on his own. Mr. Khumalo agreed that the schedule Mr. Nkuna prepared and the transcript extracts could be handed up to me, subject to his right to provide a commentary, during oral argument, on their proper interpretation.

22 Oral argument took place on 7 March 2022. Mr. Mafunda tendered bail conditions in writing on 9 March 2022, and the State set out in writing the bail conditions it would like imposed, in the event of bail being granted, on 11 March 2022.

The merits of the application

<u>The State's case against Mr. Mafunda</u>

23 The primary issue in this matter is the strength of the State's case against Mr. Mafunda. There was, in the end, very little in dispute about the core facts, although it took longer than it should to reach them. Mr. Mafunda is, together with his four co-accused, alleged to be involved in the robbery and murder of Bassam Boutrous Issa.

24 Mr. Issa was an associate of Radovan Krecjir, who is presently serving a lengthy prison sentence for offences associated with organised crime. Mr. Krecjir is also one of Mr. Mafunda's co-accused. The State alleges that Mr. Krecjir paid Mr. Mafunda from time-to-time to further Mr. Krecjir's criminal enterprise. It is not clear from the indictment what Mr. Mafunda was allegedly paid to do, but that is not material for present purposes.

25 Mr. Krecjir is alleged to have owed Mr. Issa a great deal of money. To avoid paying that money back, Mr. Krecjir is alleged to have paid Mr. Mafunda and his co-accused to plan and execute Mr. Issa's murder. In doing so, Mr. Mafunda is alleged to have committed a number of other crimes including aggravated robbery, and unlawful possession of firearms and ammunition. This is the substrate of the nine counts Mr. Mafunda faces.

26 The State did not supply a copy of the indictment with its answering papers, but I directed that it be placed before me. It is impossible to tell, from the indictment, what the precise nature of Mr. Mafunda's involvement in the crimes is alleged to be. This seems to have been a core complaint at trial, and the motive force behind an ultimately unsuccessful application for further particulars to be provided.

27 The indictment is a very broadly drafted document. In places, it lacks the particularity I would ordinarily expect. The most unfortunate passage in the indictment is paragraph 19 of the summary of substantial facts. That paragraph concludes with the allegation that a white Ford Ranger, from which the shots that killed Mr. Issa are alleged to have been fired, was occupied by "accused 1 – 3 and/or other unknown assailants" (my emphasis). Mr. Mafunda is accused 2. But the breadth of paragraph 19 is not consistent with the proposition, which Mr. Khumalo advanced before me, that it is the State's case that Mr. Mafunda directly participated in Mr. Issa's murder. At best, the State's case on its indictment is that Mr. Mafunda may or may not have been one of Mr. Issa's assailants.

28 These difficulties notwithstanding, a partial account of the State's case emerged during the hearings before me. It was conceded on behalf of the State that there is no evidence linking Mr. Mafunda to counts 3, 4 and 5 of the indictment -

which are robbery with aggravating circumstances, unlawful possession of a firearm, and unlawful possession of ammunition – and that he will likely be acquitted of them.

29 Mr. Nkuna argued that a concession had also been made on counts 1 and 2, which are conspiracy to commit murder and conspiracy to commit aggravated robbery. It was alleged that Mr. Khumalo's predecessor as a prosecutor at the trial, a Mr. Gcaba, had conceded in court that there was no evidence on which Mr. Mafunda could be convicted on counts 1 and 2. I am not convinced that the portions of the transcript to which Mr. Nkuna took me in support of his argument yield that conclusion. But, it is, in any event, not necessary for me to reach any definitive conclusions on that issue. The question is not what concessions have been made, but what positive case has been advanced against Mr. Mafunda, particularly on the most important counts.

30 The most important of all the counts is count 7: the charge of murder. This is the charge that places the onus in this application on Mr. Mafunda.

31 The State alleges that Mr. Mafunda and his co-accused might have shot and killed Mr. Issa on 12 October 2013. But Mr. Mafunda's role in all of this is far from clear. It was ultimately conceded before me that the only evidence linking Mr. Mafunda to that charge is the testimony of accomplice witnesses, or other witnesses who were probably involved in Mr. Krecjir's criminal enterprise, who the State induced to give evidence under section 204 of the Act. Section 204 grants immunity to a witness who may incriminate themselves in specified offences, if a court is satisfied that the witness has answered the questions put to them frankly and honestly.

32 Obviously, evidence of that nature will generally be treated with caution. However, it seems to me that, even taken at face value, the evidence led against Mr. Mafunda at trial does not allow me to draw the conclusion that the State's case against him is strong.

33 The first witness of relevance is Lucky Mokoena, who is alleged to have been part of the conspiracy to kill Mr. Issa. He testified to being part of a meeting in which

it was agreed that he would take Mr. Issa to a place referred to as “Money Point”, where Mr. Issa would be handed over to Mr. Mafunda and two of his co-accused. It was put to Mr. Mokoena that Mr. Mafunda was not at the meeting, and was in fact in Durban at the time. Mr. Mokoena maintained that Mr. Mafunda was at the meeting. Whether Mr. Mafunda will establish his alibi is yet to be seen.

34 However, Mr. Mokoena accepted in his evidence that he did not actually hand Mr. Issa over to Mr. Mafunda or his co-accused. This is the import of pages 9300 and 9301 of the transcript. It follows that Mr. Mokoena has implicated Mr. Mafunda in a conspiracy to kill Mr. Issa, but not in the act of murder itself (which is not alleged, on the indictment, to involve any “handing over”, whether at “Money Point” or otherwise).

35 The next relevant witness is Mondli Mbelu. He is alleged to have been contacted by Mr. Mafunda from prison and to have been asked to hide the weapon used to kill Mr. Issa. Mr. Nkuna relied on pages 7808 and 7809 of the transcript to advance the proposition that Mr. Mbelu has in fact conceded that he acted alone in hiding the weapon. Those portions of the transcript bear that interpretation. Mr. Khumalo did not suggest otherwise.

36 That accepted, Mr. Mbelu’s evidence against Mr. Mafunda does not appear to me to particularly strong.

37 A further witness, Jacob Nare, testified about the amounts of money that were alleged to be paid to Mr. Mafunda and his co-accused for killing Mr. Issa. On the face of page 9819 of the transcript, Mr. Nare appears to confirm that the money was paid to Mr. Mafunda. But the reference to Mr. Mafunda as “accused 2” appears, in the context of the page as a whole, to be an error. Earlier on the page, Mr. Nare refers to accused 2, but then corrects himself and refers to accused 1. After the reference to “accused 2”, Mr. Nare goes on to refer to accused 1 again. Although the gist of the evidence is not entirely clear, Mr. Nare’s intent seems to be to refer to the same person throughout this passage of his evidence. That person is accused 1, Siboniso Miya, not Mr. Mafunda, who is accused 2.

38 It is accordingly not possible to conclude, from the portion of Mr. Nare's evidence placed before me, that Mr. Mafunda is clearly implicated in the receipt of money for killing Mr. Issa.

39 I hesitate to draw any definite inferences about the extent of Mr. Mafunda's role in the offences charged from very short passages of evidence placed before me after having been extracted from a 10 000 page record. But what strikes me is the absence of any cogent account, in the transcript, in the State's indictment, in the State's opposing affidavits or in the evidence of Detective Sergeant Mogola, of the precise role Mr. Mafunda is alleged to have played in the conspiracy or the murder. The most lucid parts of Detective Sergeant Mogola's affidavits and evidence referred to the section 204 witnesses. However, it cannot be concluded, on the material before me, that the section 204 witnesses tell a coherent, much less a persuasive, story about Mr. Mafunda's role.

40 It is alleged that Mr. Mafunda and his co-accused acted in common purpose with each other. But that obviously does not absolve the State from proving how Mr. Mafunda associated with or furthered that purpose. I am not satisfied that the State has given a coherent account of this to me in this application.

41 I am accordingly unable to find that there is a strong case against Mr. Mafunda.

42 In bail applications, "[d]ie hof se funksie is om die relatiewe krag van die Staat se saak vas te stel in die lig van die . . . material" (*S v van Wyk* 2005 (1) SACR 41 (SCA), para 6). However, "[w]hen the State has either failed to make a case or has relied on one which is so lacking in detail or persuasion that a court hearing a bail application cannot express even a *prima facie* view as to its strength or weakness, the accused must receive the benefit of the doubt" (*S v Kock* 2003 (2) SACR 5 (SCA), para 15).

43 It seems to me I am in precisely the situation that Heher AJA alludes to in *Kock*. I cannot form any definite impression of the strength or weakness of the State's case. Mr. Mafunda must be given the benefit of the doubts I am left with.

That, in itself, militates strongly in favour of concluding that there are exceptional circumstances permitting Mr. Mafunda's release on bail.

The length of the trial

44 In *Mooi v S* [2012] ZASCA (30 May 2012), the Supreme Court of Appeal held that an apparently weak state case, combined with lengthy delays at trial constitute "exceptional circumstances" for the purposes of the Act. Mr. Khumalo submitted quite strenuously that the admittedly lengthy delay in finalising the State's case at trial was caused, in the main, by what he termed "frivolous" applications brought by Mr. Mafunda and his co-accused. It was also suggested that Mr. Mafunda caused some of the delay by changing his counsel. There does not seem to be any real dispute that Mr. Mafunda had to change his counsel because the advocate he initially briefed died during the trial. It seems inappropriate to hold that against him. The information necessary to draw any other definite conclusions about the causes of delay at the trial has not been placed before me. I can make no findings in that regard.

45 In any event, it seems to me that the relevance in the length of the trial to date lies in the fact that, were there really a strong case against Mr. Mafunda, the State should have had no difficulty in presenting that case, clearly, convincingly, and concisely. As I have already concluded, that has not been done. It is obviously unfortunate that, after 5 years and 10 000 pages of evidence, no-one was able to tell me precisely what Mr. Mafunda's involvement in the crimes alleged was.

46 There may well be an account of that involvement available. The problem is that it was not placed before me. Mr. Mafunda clearly bears the onus of demonstrating exceptional circumstances (one of which, it is accepted in the applicable case law, is a weak case against him). But once Mr. Mafunda adduced evidence that suggested the case against him is not strong, the State was bound to provide an account of the evidence led, and to be led, that was sufficient to refute Mr. Mafunda's characterisation of that evidence.

47 This has not been done. That it has not been done after a 5-year trial only strengthens Mr. Mafunda's case.

Interference with witnesses, flight risk and propensity to commit further offences

48 The State resisted Mr. Mafunda's application on three further bases: that there was a likelihood that Mr. Mafunda will interfere with the State's witnesses; that he is a flight risk; and that he is likely to commit further offences while on bail.

49 The allegation of witness tampering springs from Mr. Mafunda's trial and acquittal on a charge of conspiracy to murder Mondli Mbelu. Mr. Khumalo argued that Mr. Mafunda was acquitted on a technicality. That technicality was alleged to have been that undercover police officers, in seeking to entice Mr. Mafunda to engage in the conspiracy, over-reached their powers of entrapment under section 252A of the Act. As technicalities go, this seems to me to be a significant one. But the broader problem is that, other than this brief summary, very little information was placed before me about the nature of the conspiracy alleged, the trial of Mr. Mafunda on it, or the reasons for his acquittal.

50 I cannot draw the conclusion that Mr. Mafunda presents a real risk to State witnesses from this information. In any event, Mr. Mbelu has now, it seems, testified against Mr. Mafunda.

51 One leg of the case that Mr. Mafunda is a flight risk is that the police have apparently been unable to verify his bail addresses. This is not strictly true. Mr. Mafunda has given two addresses: one in Randfontein, Gauteng and one in Mtwalume, KwaZulu-Natal. The police appear to have confirmed that the Randfontein address belongs to a relative of Mr. Mafunda. I am unable to locate an account of any positive recent efforts the police have made to verify the Mtwalume address. The State says merely that Mr. Mafunda has failed to provide a house number, and has been hazy on the details of this address in the past. Mr. Mafunda's brother, Lizwi Maphulmulo, provides a confirmatory affidavit setting out the address in full, and providing a cell number on which efforts to verify the address can be

made. The State has not explained what efforts, if any, have been made to confirm this information.

52 The other leg of the case on flight risk relates to a plea and sentence agreement Mr. Mafunda entered into in relation to another matter finalised over a decade ago. Part of the agreement was that Mr. Mafunda would testify against his co-accused in exchange for a wholly suspended sentence. Mr. Mafunda was placed in witness protection. He then absconded from witness protection and never testified at his co-accused's trial. This was held up as evidence of Mr. Mafunda's apparent lack of trustworthiness.

53 These allegations are cause for concern, but there is no indication of what steps, if any, have been taken in relation to Mr. Mafunda's apparent breach of his plea and sentence agreement. Detective Sergeant Mogola shed no light whatsoever on this in her evidence. As I understood it, her evidence was that she was unable to locate a record of what happened as a result of Mr. Mafunda's apparent abscondment.

54 For his part, Mr. Mafunda accepts that he left witness protection, but states that he was always available to testify. He says that the State simply never called him. Mr. Mafunda has been in custody for several years. It is not clear what steps the State has taken to enforce or undo the plea and sentence agreement in that time. Without a clearer statement of the facts, I am unable to conclude that this incident demonstrates that Mr. Mafunda is a flight risk.

55 Finally, it is necessary to deal with Mr. Mafunda's alleged propensity to commit offences. Here the State relies on his previous convictions for driving without a licence and business robbery. It is the second conviction that formed the basis of the plea and sentence agreement to which I have referred.

56 I am unable to conclude that these convictions establish a propensity to commit offences. Section 60 (4) (a) requires me to be satisfied that there is a "likelihood" that Mr. Mafunda will commit a schedule 1 offence while on bail. While previous convictions can help establish such a likelihood, they would have to, in my

view, provide evidence of a pattern of offending behaviour. Otherwise, the denial of bail would serve as a form of excessive punishment for a crime previously committed and dealt with according to law.

57 Section 60 (4) (a) can also be read to authorise a form of preventative detention. A court is entitled to refuse bail if it thinks that an offence may in future be committed. Preventative detention is, of course, generally very undesirable. I am reluctant to order it without the clearest of cases of an alleged criminal propensity having been established. That sort of case has not been established here.

58 There are two other cases pending against Mr. Mafunda in the Protea and Randburg Regional Courts. On the face of it, those cases seem to be closely related to the trial proceeding in this court. The nature of that relationship was never really explored or elucidated before me. Mr. Mafunda has been granted bail in relation to both of those matters. It seems to me that the mere fact of these matters does not support the view that Mr. Mafunda is likely to commit further offences while on bail. If the State had isolated specific facts or circumstances relating to those matters and explained why they supported its case, things might have been different.

Order

59 In all fairness, Mr. Mafunda's reputation is far from spotless. He has been convicted, in the past, of a very serious offence, and it remains to be seen whether he really was as closely involved in Mr. Issa's death as the State alleges.

60 However, my task is not to make an assessment as to Mr. Mafunda's general character or the desirability of his associations or past conduct. It is to decide whether there are exceptional circumstances that permit his release on bail. For the reasons I have given, there are plainly such circumstances. Those circumstances are the apparent weakness of the case against him, coupled with the length of the trial to which he has been subjected.

61 The State's opposition to bail in this matter has lacked coherence and focus. Its rhetorical claims – for example that Mr. Mafunda is involved in an "underworl[d]"

that has “no respect for the rule of law or human life” – have never been given a convincing factual or evidentiary foundation. This contrast between the tenuousness of the state’s evidence and the vehemence of its opposition to Mr. Mafunda’s application leave me with a profound sense of unease. Either there are sound reasons to refuse bail, but the State’s case has been so ineptly advanced that they have not been proved before me, or there really is something to Mr. Mafunda’s apparently fantastical allegations of a police conspiracy against him.

62 I find neither prospect particularly edifying, but the bottom line is that I am not satisfied that the State has advanced any consideration that would militate against releasing Mr. Mafunda on appropriate conditions.

63 Bail must accordingly be granted. I intend to impose and supplement the conditions that the State has asked for, which seem to me to be entirely reasonable in the circumstances.

64 Accordingly, the applicant will be released on bail, subject to the following conditions.

64.1 Bail is set in the amount of R20 000 (twenty thousand rand).

64.2 The applicant is to reside at [....] Eerste Straat, Vleikop, Randfontein [....].

64.3 The applicant is to report to the Randfontein Police Station every Wednesday and every Sunday between 06h00 and 18h00;

64.4 The applicant shall not leave Gauteng Province without informing the investigating officer;

64.5 If the applicant wishes to reside outside Gauteng –

64.5.1 he is to inform the investigating officer of the address at which he will be residing;

64.5.2 the investigating officer must, within one week of being notified of that address, cause the address to be verified, and inform the applicant of the police station to which he must report every Wednesday and every Sunday between 06h00 and 18h00. That police station will be the police station closest to the verified address;

64.5.3 If the address the applicant provides, or any alternative address, cannot be verified, the applicant must remain in Gauteng unless and until these bail conditions are varied or he is discharged from his trial.

64.6 The applicant shall not make contact with or interfere with witnesses directly or indirectly;

64.7 The applicant shall not temper with evidence and/or any further investigations in this matter; and

64.8 The applicant will stand his trial, and will report to this Court as and when directed to do so by the presiding Judge.

S D J WILSON
Acting Judge of the High Court

HEARD ON: 21 January, 11, 18, 23 and 25 February, 7 March 2022

DECIDED ON: 14 March 2022

For the Applicant: LS Nkuna
Name of instructing attorney not supplied

For the Respondent: SJ Khumalo
Instructed by the National Prosecuting Authority