

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: A07/2024

DATE: 2024-02-22

**DELETE WHICHEVER IS NOT APPLICABLE**

**(1) REPORTABLE: YES / NO.**

**(2) OF INTEREST TO OTHER JUDGES: YES / NO.**

**(3) REVISED.**

**DATE**

**SIGNATURE**

10 In the matter between

THE STATE

and

DRYSTAN BRUCE STAFFORD

Accused

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**JUDGMENT**

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20 **YACOOB, J:** This is a bail appeal in terms of section 65 of the Criminal Procedure Act, 51 of 1977 (“the CPA”). The accused is charged with a Schedule 6 offence and therefore may not be released on bail unless he demonstrates to the Court, as required by section 60(11) of the CPA, that there are exceptional circumstances which permit his release in the interests of justice. The question of the interest of the justice in terms of section 60(4) therefore does not apply in

a general way, as the legislature has made a decision that it is in the interest of justice for an accused of a Schedule 6 offence to remain in prison unless that person demonstrates that there are exceptional circumstances which support his release on bail. If there are no exceptional circumstances it is not in the interests of justice, and if there are, it is.

In terms of section 65(4) I do not have the power to set aside the decision unless I am satisfied that the decision was wrong in which case, I must give the decision the lower  
10 Court should have given.

The magistrate found that there were no exceptional circumstances and therefore I must find that there are in fact exceptional circumstances demonstrated by the accused which support his release.

In support of the submission that there are exceptional circumstances it is submitted for the appellant that his relatively young age should stand in his favour (he is 23 years old) and, secondly, that his grandparents are ill and he would be living with his grandparents and taking  
20 care of them. A third factor which was relied upon is that the appellant wishes to change his ways, will enter treatment and will further his studies.

As far as his age is concerned, I am not satisfied that that is an exceptional circumstance. As far as the need the grandparents is concerned, Mr Stafford, the appellant's

grandfather gave evidence for the Court *a quo*. He indeed testified that he is ill, he has four different kinds of cancer and his wife, the accused's grandmother is also ill. She fell, had some condition with her back three months his relapse with his cancer and therefore she is not able to take care of him.

However, despite this, the accused was not actually taking care of his grandparents before his arrest and it appears that their need for him, to the extent that existed,  
10 only arose after he was arrested. In fact, the grandfather's testimony demonstrates more a man who wants to help the child, the grandson rather than a man who is in need of the grandson's help although he does testify that it would benefit him to have the grandson there. He does not say he is in need of the grandson's help.

As far as studying and obtaining treatment is concerned, there is no evidence of what he wants to study and that it cannot be studied while he is in prison. There is also no evidence that he cannot receive treatment while in  
20 prison, awaiting trial.

I therefore find that Mr Stafford has not demonstrated circumstances that are sufficiently exceptional for him to obtain bail in terms of section 60(11) and therefore I am not satisfied that the magistrate's decision was wrong. The appeal is therefore unsuccessful.

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**YACOOB J**

**JUDGE OF THE HIGH COURT**

**DATE: .....**