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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: A216/25

COURT A QUO CASE NO: RC 21/2024

HEARD ON: 3 SEPTEMBER 2025

JUDGMENT: 10 SEPTEMBER 2025

(1) REPORTABLE: ~~YES~~ / NO

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

(3) REVISED

DATE : 10 September 2025

SIGNATURE

In the matter between:-

GLEN NEGUYO LELO NGOBENI

APPELLANT

AND

THE STATE

RESPONDENT

JUDGMENT

Strijdom J

1. This is an appeal against the refusal of the Vereeniging Regional Court to grant the appellant bail pending the finalization of his trial. The appeal is opposed by the State.

2. The appellant and three other accused had been charged with murder, kidnapping, robbery with aggravating circumstances and possession of an unlicensed firearm and ammunition.
3. The appellant was arrested on 12 June 2024. He was kept in custody until he applied for bail on 28 June 2024. On 13 November 2024 the Magistrate refused to admit him to bail.
4. The appeal has been lodged in terms of section 65(4) of the Criminal Procedure Act 51 of 1977 ("CPA") which enjoins the Court hearing the appeal not to interfere with the Magistrate's decision unless it is satisfied that such decision was wrong.
5. It is clear from the provisions of the subsection that the duty to satisfy the appeal Court that the lower Court's decision was wrong is borne by the appellant. The fact that the Court of Appeal could have granted bail had it been the court of first instance does not justify interference.
6. It is common cause between the parties that the appellant was charged with Schedule 6 offences which triggered the application of the provisions of section 60(11)(a) of the CPA. The said section places a heavy onus upon the applicant for bail. It requires him, in peremptory terms, to adduce evidence and satisfy the Court hearing the application that exceptional circumstances exist in his case which in the interest of justice permit his release.
7. The appellant filed two affidavits in support of his application for bail which was read into the record and admitted as exhibits. In reply to the affidavit deposed to by Detective Sgt Ramakatsa, the appellant addressed the issues raised therein by way of viva voce evidence.

8. The respondent, in response to the appellant's application have proceeded by way of two affidavits, deposed to by Detective Sgt Ramakatsu, which was read into the record and admitted as exhibits.
9. The facts giving rise to the present proceedings have been fully dealt with in the judgment of the Court a quo and I do not propose to repeat them in any detail. The gist of the State case, as it appears from the affidavits filed by Detective Sgt Ramakatsu, can be summarised as follows:
 - 9.1 On 13 February 2024 at about 7:00 the body of Mr. Adriaan Theunis van Lingen ("the deceased") was found in an open veld around Kliprivier, Midvaal. His hands were bound behind his back. He was lying on his stomach with a gunshot wound at the back of his head.
 - 9.2 Further investigations revealed that there was an amount of R500 000-00 (five hundred thousand rand) transferred from the deceased's ABSA bank account on 12 February 2024 at about 00:12 to an unknown bank account.
 - 9.3 It was further determined that between 23:10 and 23:25, on the same day the deceased's bank card was used to make purchases, which led to the arrest of two suspects.
 - 9.4 The cellphone number of accused no 1 (Mandla Nkosi), was forensically imaged and the cellphone data as well as the tower information was obtained via a Section 205 subpoena. On analysis of this phone, communication was found that occurred between accused no 1 with cellphone number 0[...] and the appellant with cellphone 0[...] which linked the appellant to his involvement in the murder of the deceased.

- 9.5 A screenshot of a notice of payment from the deceased's bank account to bank account number 4[...] was sent from accused 1's cellphone to the appellant's cellphone, further connecting the appellant with the crime.
- 9.6 In WhatsApp communication between accused no 1 and the appellant that occurred on 12 February 2024 at around 17:01 the following message was sent by the appellant to accused no 1:
"Avelly I spoke to Felix, we are going to have to delete this guy ... the cash we will not get it."
Accused no 1 replied: "Sure".
- 9.7 Another important screenshot on accused 1's cellphone was an image of a banking application that was assessed from the phone of the deceased indicating the balance of the deceased's ABSA account.
- 9.8 A picture of a letter addressed to the appellant was found on accused 1's cellphone. The letter dated 12 February 2024 was in possession of the deceased. This letter is a cancellation of the sales agreement due to non-payment and contractual differences.
- 9.9 The deceased had a scheduled appointment with the appellant on 12 February 2024 at his commercial premises in Olifantsfontein which the appellant was renting with an option to buy.
- 9.10 The tracking information obtained of the vehicle belonging to the deceased with registration number K[...] recorded the vehicle on 12 February 2024 at around 11:30 on the premises which the appellant was renting from the company of the deceased. This was the last coordinates received from the tracking device on this vehicle. The

vehicle was subsequently burned, and the vehicle was discovered soon after discovering the deceased.

- 9.11 Subsequent to the arrest of the appellant, the vehicle which he was driving was searched by the police and a unlicensed firearm was discovered.
- 9.12 Upon search of the residential property at 3[...] M[...] O[...] that the appellant rented from the deceased, of which the appellant claims ownership, a vehicle number plate linked to the deceased's vehicle was found. A number of blood samples were discovered in the property which are suspected to be the blood of the deceased.
- 9.13 During the processing of the appellant's detainment at the police station, the appellant attempted to bribe the investigating officer and his colleagues with R500 000-00 cash to make the case disappear against him.
- 9.14 The address where the appellant lives, [...] D[...] Street, B[...] V [...], Golf Estate and which he claims ownership to, belongs to Mr. Pillay and his wife. The original agreement between the appellant and Mr. Pillay regarding this property was a rental agreement with the option to purchase as was the case with the property belonging to the company of the deceased. The appellant is in breach of this agreement. The appellant was notified by the property practitioner that if a bond is not registered by end of July 2024, the appellant needs to move out of the property at the end of August.
- 9.15 The property, 3[...] M[...] Road O [...], is still owned by OEC Industrial Holdings, the company of the deceased. This company served eviction notices on the appellant.

10. The appellant testified in his application for bail and was duly cross-examined by the prosecutor.

11. The appellant was an unreliable witness. He conceded that he was lying on the following material issues in his affidavit:

11.1 The house at number 1[...], D[...] Street, B[...] V[...] Golf Estate in Centurion belongs to him with a small outstanding bond held by FNB.

11.2 He has no previous convictions. The appellant was convicted in July 1999 on attempted theft and possession of housebreaking implements. He was sentenced to six years imprisonment.

11.3 He have a diploma in Motor Mechanics and Criminology.

11.4 He has 36 construction vehicles.

11.5 He know accused 1 as he does work for the appellant regularly.

12. The appellant contends that the respondent's case against him is very weak and largely circumstantial.

13. It was argued by the appellant that the Court a quo have erred both on the facts and the law in not holding that the appellant had proven on a balance of probabilities that there are exceptional circumstances which in the interest of justice permit the release of the appellant on bail.

14. The learned Magistrate concluded that there is a prima facie case against the appellant based on the circumstantial evidence. He further concluded that the appellant's personal circumstances are not exceptional circumstances.

15. The learned Magistrate duly considered the factors listed in section 60(4) of the CPA and the evidence tendered by the appellant and the respondent.
16. The charges against the appellant are serious. He faces a long term of imprisonment if convicted.
17. The State's case against the appellant appears, on the face of it to be fairly strong. But even in the face of a seemingly strong case against the appellant, what is required is a weighing up of the interest of justice against the appellant's personal circumstances, in particular the prejudice that the appellant may suffer if he is refused bail.
18. The learned Magistrate duly weighed up the interests of justice against the personal circumstances of the appellant.
19. I conclude that the appellant has not discharged the onus of proving exceptional circumstances. It must necessarily follow that on an analysis of the evidence as a whole, the appellant has not succeeded in demonstrating the decision of the Court a quo was wrong and should be set aside.
20. In the event the appeal is dismissed.

J.J. STRIJDOM
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

APPEARANCES:

For the appellant:	Mr M Mohohlo
Instructed by:	Mahoko Mohohlo Attorneys
For the respondent:	Adv Khoza
Instructed by:	The Director of Public Prosecutions