

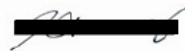
IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION HELD AT JOHANNESBURG

CASE NO: A144/2024

DATE: 14-11-2025

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED 26 NOVEMBER 2025



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SIGNATURE.

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In the matter between

JAYSON DESIGA RAMSAMMY

Applicant

and

STATE

Respondent

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EX TEMPORE JUDGMENT

KUNY, J:

This is the matter of Jason Desiga Ramsammy, the Applicant, versus the State. The case number is A144/2024.

1. On 16th December 2024, in this matter, I issued an order *inter alia* granting bail to the Applicant, pending him exhausting his rights of appeal against this conviction

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and/or sentence in the Magistrate's Court, respectively, on 5 February 2024 and 18 July 2024:

- a. The order provided that the Applicant's bail would lapse if he was refused leave to appeal against his conviction and/or sentence by the Supreme Court of Appeal, or if leave to appeal is granted, the Applicant prosecutes his appeal within the time period as prescribed by the Rules of Court.
 - 10 b. The Applicant was given the further right to approach the Constitutional Court if the Supreme Court of Appeal refused him leave.
2. The above order further provided that if the Applicant's applications for leave to appeal were refused by the Supreme Court of Appeal and by the Constitutional Court, he was required to report to the Department of Correctional Supervision, Johannesburg Prison, for the purposes of continuing to serve his sentence within 72
20 hours of written notice being given to his attorney of record, notifying him that his applications had been refused and if granted, that the Applicant's appeals to these courts had been dismissed.
 - a. The *de facto* position is that the Applicant has exhausted his rights of appeal.
 - b. He has been refused leave to appeal in my estimation by no less than 14 Judges and one Magistrate.
 - c. Included in this number were two applications to the
30 Supreme Court of Appeal, one being a petition for leave to appeal and, a second application for a reconsideration of the order refusing him leave to appeal.

3. The Applicant now comes to court urgently on new grounds seeking bail pending a review of the proceedings in which he was convicted and sentenced to prison. The review application was filed on 30th July 2025 and in that matter the Applicant sought orders, *inter alia*, setting aside his convictions and sentence in the Magistrates Court of Palm Ridge Specialized Commercial Crimes Court. An alternative prayer sought the setting aside of the conviction and sentence, and referring the matter back to the Magistrates Court for the trial to commence *de novo* before another Magistrate. Further alternatively, the Applicant sought leave to adduce further evidence in terms of section 316(5) of the Criminal Procedure Act 57 of 1977.
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4. The review application in the main regurgitates the issues that were dealt with at the trial of the matter. They were also issues that were in the main dealt with in the Applicant's applications for leave to appeal to the Magistrate, to the High Court, the Supreme Court of Appeal, and to the Constitutional Court. None of the judges who heard the petitions considered there to be any merit in the points raised by the Applicant, as grounds of appeal and accordingly he reached the end of the road, as far as his right of appeal is concerned.
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5. Counsel for the Applicant outlined to the court the grounds of review. I do not intend to deal with them. He conceded that these were issues that arose during the course of the trial of the matter, and were issues that had been raised on petition, save for one issue that I will proceed to deal with.
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6. It is alleged in the Applicant's review application that the Magistrate misconducted himself by having communications with the complainant, or family members of the complainant at, or about the time of his trial. This obviously would be highly irregular and if substantiated, may prove to be a ground of review. Strangely, when Counsel for the Applicant addressed argument to the Court, he submitted that the evidence of the Magistrate's misconduct came to the Applicant's attention during his trial. Applicant's Counsel did not conduct the proceedings on behalf of the Applicant. Another Counsel was involved, and I am not sure to what extent counsel before me is privy to the facts and what occurred during the trial. However, I raise this because it is self-evident that if during the trial the Applicant became aware of facts that pointed to the misconduct of the Magistrate, he ought to have immediately applied for the Magistrate's recusal. The Applicant was represented by Senior Counsel at his trial and any Counsel who has any basic knowledge of criminal law, would know that the misconduct of a judicial officer would taint the proceedings.
7. However, that is not what is revealed in the review application. Evidence on affidavit is disclosed of a private investigator who was employed to delve into the cell phone records of the Magistrate, in order to establish whether he had communications with certain designated persons that were associated with the complainant. The private investigator is Thulani Dube. His affidavit was deposed to on 5th September 2025. The allegations made in this affidavit are vague and unspecified. He purports to identify certain cell phone numbers and then states that he will

provide full attribution documents, RICA confirmations and supporting annexures in his final report. No final report has yet been forthcoming. Reliance is made in his affidavit on a certain Annexure N, which is included as part of the Applicant's application, either for review or to extend his bail.

8. During the course of argument, the Court asked the Applicant's Counsel to point out exactly where the evidence was that showed communications between the Magistrate and the complainant or his family. Counsel could not do so. The Court was told that the investigator was busy in the Madlanga Commission and was unable at this stage to provide any further information.
9. In the meanwhile, State Counsel informed the court that because of these allegations of misconduct on the part of the Applicant, he deposed to an affidavit in August of 2025 calling for the matter to be investigated. Lieutenant-Colonel Schnelle of the South African Police was tasked to investigate the matter. Before the proceedings commenced, the State provided an affidavit from the Lieutenant-Colonel dated 14th November 2025. The affidavit contains annexures which refers to cell phone records obtained from Magistrate Keswa, who is the Magistrate who adjudicated at the Applicant's trial. During the course of his investigation, he made contact with MTN cell phone service provider, as they had provided the detailed call billing list of Magistrate Keswa to the Applicant. He was informed that this record was provided on the issue of a subpoena in terms of section 205 of the Criminal Procedure Act. In his affidavit, he states that he has subsequently established that the subpoena was false.

MTN provided the Colonel with the original cell phone data of Magistrate Keswa, and he studied the data. He states that he could not find the call log as identified by the Applicant in his Annexure 14 and identified in the annexures to his (Lieutenant-Colonel Schnelle's affidavit) marked Annexure LRS1. He has attached a printout of the original MTN cell phone billing record of Magistrate Keswa for the same period and marked it Annexure LRS2.

10 10. Lieutenant-Colonel Schnelle states in his affidavit that:

"The same call entry that the Applicant claims was a call between the complainant and Magistrate Keswa is not reflected on the original document."

This, in his words:

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"Clearly proves that the information on the Applicant's attachments has been manipulated to present a false telephone call. This call log was falsely inserted into the call log of Magistrate Keswa to misrepresent the true facts and to bring false information to the court."

Lieutenant-Colonel Schnelle asserts that:

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"The Applicant has resorted to desperate measures to have his conviction and sentencing set aside and for the criminal matter to start *de novo*. He has exhausted every appeal process available to him and has now resorted to criminal acts of illegally obtaining the personal information of the Magistrate, and when a call could not be identified on the Magistrate's cell phone billing, a false call was inserted to create the false impression of collusion between the Magistrate and the complainant."

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He also contends that:

“The information relied upon by the Applicant was illegally obtained and illegally altered to present a set of facts that support this application for an extension of his bail.”

10 11. Finally, the Lieutenant-Colonel sets out facts on which he justifies the reason why his affidavit was provided under such urgent circumstances.

12. The Applicant will have an opportunity in the course of ventilating the review application, to deal with all this matter. The issue before the Court is different. It concerns the extension of the order that this Court gave on 16th December 2024, admitting the Applicant to bail until the review application has been fully ventilated.
20 Counsel for the Applicant has conceded that the Applicant would have to show exceptional circumstances. The thrust of his argument appears to be that there would be no prejudice to the State if the Applicant's bail was extended. He also asserts vehemently that the Applicant is not a flight risk.

13. On the other hand, Counsel for the State correctly points out that the presumption of innocence no longer exists at this stage. Not only is the Applicant not presumed
30 innocent, he has exercised his right of appeal from the very lowest Court to the very highest Court of the country. He no longer has any further avenue of appeal available to him. Anticipating this, therefore, the Applicant proceeded with a review application earlier this year. As I have said,

however, the review application in the main is merely a regurgitation of all the issues that were raised in the Applicant's appeal. It is nothing short of an attempt to introduce a new appeal via the back door.

14. The only issue that could be of any substance, if there was proof, would be communications between the Magistrate and the complainant or persons closely related to the complainant during the trial or before judgment and sentence were passed. Not only is the evidence of such communication tenuous, vague, and unsubstantiated, the State has now refuted this evidence in the affidavit of Lieutenant-Colonel Schnelle.

15. I accept that the Applicant has not had an opportunity to reply to this affidavit. However, it did not seek such an opportunity before this bail application was argued. In any event I regard the affidavit to be important evidence, and I accept what Lieutenant-Colonel Schnelle has set out in his affidavit, as further undermining the already unsubstantiated and vague assertions made by the Applicant in relation to the Magistrate's conduct.

16. No exceptional circumstances of any kind have been shown which would induce this Court to extend its order granted on 16th December 2024.

a. I would also mention that in the Applicant's application for bail, he states that the misconduct of the Magistrate is not the primary issue on which he approaches this Court, and yet Counsel for the Applicant submitted to Court that it is the primary consideration applicable to this application.

b. There are other contradictions between what has been

submitted to the Court and what is contained in the Applicant's papers.

17. The hard truth is that the time has now come for the Applicant to submit himself to the correctional supervision authorities to continue his sentence:

a. He is quite entitled to proceed with his review application. His investigator can continue his work.

10 b. The State has likewise indicated that they intend to follow up what they perceive is an attempt to manipulate and falsify evidence, for the purposes of subverting the course of justice. That, in itself, is a very serious allegation.

18. It follows from what I have said that the Applicant's application for the grant of bail or for the extension of the Court's order in this matter dated 16 December 2024 is dismissed. The Court's order of 16 December 2024 is confirmed. The Applicant shall present himself at 08:30 am on 15 November 2025 to the Department of Correctional Supervision for purposes of continuing to serve his present sentence.

(The court issued a written order contemporaneously with the handing down of this *ex tempore* judgment)

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KUNY, J
JUDGE OF THE HIGH COURT

DATE OF CORRECTION: 26 November 2025

TRANSCRIBER'S CERTIFICATE

I, the undersigned, hereby certify that **so far as it is audible to me**, the foregoing is a true and correct transcript of the proceedings recorded by means of a digital recorder in the matter between:

JAYSON DESIGA RAMSAMMY // STATE

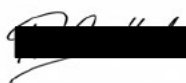
CASE NUMBER	: A144/2024
RECORDED AT	: JOHANNESBURG
DATE HELD	: 2025-11-14
NUMBER OF PAGES	: 12

PROBLEMS EXPERIENCED WITH RECORDING

1. *Surname of the Presiding Judge was not placed on record.*
2. *No protocol provided to be able to confirm the appearances.*
3. *Transcriber was not sure in which court this matter was held (see point 2).*

DATE COMPLETED: 2025-11-25

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