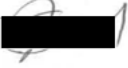


REPUBLIC OF SOUTH AFRICA



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

Case Number: A89/2025

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
	
<u>23 DECEMBER 2025</u>	_____
DATE	SIGNATURE

In the matter between:

MOKOATLE THABANG COHMAN

APPLICANT

V

THE STATE

RESPONDENT

JUDGMENT

MAHOMED J

[1] The appellant appeals the refusal of bail by the Magistrate Randburg.

[2] I heard submissions considered the judgment a quo and find no reason to interfere with the judgment of the court a quo. The Magistrate was not misdirected and not wrong. The appeal is dismissed.

[3] The appeal is refused for the following reasons:

[4] The court a quo was not incorrect when it focused on a material non-disclosure, having regard to the charges against the appellant. Counsel for the appellant argued that the court failed to balance the failure to disclose the service of a protection order against the several factors set out in s65(4) of the CPA.

[5] The existence of the protection order was only revealed to the court upon the court's explaining the consequences of the failure to disclose. I noted counsel for the states submissions that the criminal justice system ought not to be "teaching" persons how to behave toward other humans. The fact that an order of this nature was justified and therefor granted, must inform the court in a bail application on the seriousness of the offence and its impact on a member of society. I see no reason to disagree with the court a quo and agree with the submissions on character and respect of humanity, by counsel for the state.

[6] Whilst the appellant does enjoy a right to freedom of movement, others in society enjoy a right to safety and security. Counsel for the state contended that the trial was delayed at the instance of the appellant.

[7] Section 60 (5) provides that the court on hearing an application for bail must consider the prevalence of the crime. The existence of a protection order may have assisted the court a quo on this aspect of prevalence, the probabilities and the degree of the complainant's fears.

[8] Counsel for the appellant argued that the protection order was only served on his client whilst he was incarcerated and before the bail hearing, a week after

arrest and the non-disclosure must be viewed within that context. However, counsel for the state correctly argued that neither the appellant nor his attorney could have necessarily been mistaken about or forgotten about the protection order when they appeared at the bail hearing. The service of this order was a recent event in relation to the bail hearing. To my mind the non-disclosure is another demonstration of the appellant's attitude to the charges he faces.

[9] I agree with the state that if the consequences of a failure to disclose were not put to the appellant he would never have mentioned the protection order at all. The protection order was granted after a court applied its mind to the details of the danger that the complainant faced and obviously were sufficiently serious for it to have been granted. The court at the bail hearing would not have the benefit of hearing the same level of detail, the protection order would in a sense highlight the complainant's challenges regarding her safety. The court a quo was correct to have relied on this important fact to refuse bail, for the charges of assault, malicious damage to property and theft, having been perpetrated in the home they shared at some time.

Accordingly, the appeal is dismissed.

A handwritten signature in black ink, appearing to be 'S Mahomed J', is written over a solid black rectangular redaction box.

S MAHOMED J
JUDGE OF THE HIGH COURT
JOHANNESBURG

Date of hearing: 22 December 2025

Date of Judgment: 23 December 2025

Appearance:

For the Applicant :

Adv H Manganyi instructed by

Chauke S Attorneys

Email:

solani@chaukeattorneys.co.za

For the Respondent:

State Attorney

Ms RL Kgaditsi

Email: RKgaditsi@npa.gov.za