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

CASE NO: A5/26

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO THE JUDGES: YES/NO

(3) REVISED.

DATE: 09/2/2026

SIGNATURE:

In the matter between:

BHEKUMZI MIKE GILBERT SANDLANA

APELLANT

and

THE STATE

RESPONDENT

This Judgment is herein duly stamped by the Registrar of the Court and is submitted electronically to the Parties/their legal representatives by e-mail. The Judgment is further uploaded to the electronic file of this matter on Caselines. The date of this Order is 16 February 2026.

JUDGMENT

MAKAMU J

Introduction

[1] This is an appeal against the refusal of bail by the Regional Magistrate, Pretoria, on 22 December 2025. The Appellant, Bhekumzi Mike Gilbert Sandlana, stands charged with multiple counts under the Prevention and Combating of Corrupt Activities Act 12 of 2004, offences which falls within the ambit of Schedule 5 of the Criminal Procedure Act 51 of 1977 ("the CPA"). The court *a quo* found that the Appellant failed to satisfy the onus under section 60(11)(b) of the CPA¹, namely that the interests of justice permit his release.

[2] The core issue for determination is whether the magistrate was wrong in concluding that the Appellant poses a flight risk and that his release would undermine the interests of justice.

Legal Framework

[3] Section 65(4) of the CPA² provides that an appeal court shall not set aside a lower court's bail decision unless satisfied that it was wrong. The appeal is not a fresh hearing; the court must assess whether, on the material before the magistrate, the decision was correct.

[4] In bail applications under Schedule 5. the accused bears the onus to satisfy the court on a balance of probabilities that the interests of justice permit release, with specific reference to the factors listed in section 60(4)³ of the CPA. The court must consider whether there is a likelihood that the accused, if released, will:

(a) Where there is the likelihood that the accused, if he or she were released on bail, will endanger the safety of the public, any person against whom the offence in question was allegedly committed, or any other particular person or will commit a Schedule 1 offence

(b) where there is the likelihood that the accused, if he or she were released on bail, will attempt to evade his or her trial; or

¹ Criminal Procedure Act 51 of 1977, s 60 (11)(h).

² Criminal Procedure Act 51 of 1977, s 65 (4).

³ Criminal Procedure Act 51 of 1977, s 60 (4).

(c) where there is the likelihood that the accused, if he or she were released on bail, will attempt to influence or intimidate witnesses or to conceal or destroy evidence; or

(d) where there is the likelihood that the accused, if he or she were released on bail, will undermine or jeopardise the objectives or the proper functioning of the criminal justice system, including the bail system; or

(e) where in exceptional circumstances there is the likelihood that the release of the accused will disturb the public order or undermine the public peace or security.

[5] The strength of the State's case, though not determinative, is a relevant factor in assessing the incentive to flee, particularly where a lengthy custodial sentence is likely. The Constitutional Court in ***S v Dlamini***⁴ affirmed that the court's enquiry is prospective and focused on risk, not guilt.

Analysis

Flight Risk: The Central Issue

[6] The magistrate's finding that the Appellant poses a flight risk is supported by several cogent factors:

6.1 Fraudulent Manipulation of Identity Documents: The Appellant's history of obtaining multiple identity documents with different dates of birth and identity numbers demonstrates a capacity and willingness to manipulate official records to suit his purposes. This is not a mere administrative anomaly; it reflects a pattern of conduct aimed at obscuring his true identity and creating alternative identities. A person who has demonstrated the ability to

⁴ ***S v Dlamini*** 1999 (2) SACR 51 (CC)

alter their legal identity poses a heightened risk of fleeing and assuming a new identity to evade justice.

The court notes that the Appellant was registered at birth as Bhekumuzi Mike Gilbert Sandlana with identity number 6[...], allocated in 1989 as per birth certificate serial number B[...]. In 1993, he applied for the rectification of his birth from 28 February 1969 to 15 February 1966 with the birth certificate serial number B[...]. He again approached the Department of Home Affairs in 2010 to rectify his date of birth from 15 February- 1966 to 15 February 1961 using the same birth certificate with serial number B[...]; however, the names on the birth certificate appear as Mike Sandlana. This suggests that the birth certificate has been altered without the issuance of a new birth certificate with new names.

6.2 Unlawful Cross-Border Movement: the evidence from the investigating officer that the Appellant has moved between South Africa and Lesotho without documented border crossings indicates his ability and propensity to circumvent official immigration controls. This directly undermines his assertion that surrendering his passports eliminates the risk of flight.

6.3 Strength of the State's Case and Seriousness of Charges: The charges involve substantial amounts of money and carry the prospect of a lengthy custodial sentence upon conviction. The State's case, as outlined, appears substantial. It is well-established in our law in ***S v Nichas and Another***⁵, that the prospect of a severe sentence provides a powerful incentive to abscond. Diemont J stated :

"In the second place if there was a likelihood of heavy sentence being imposed the accused will be tempted to abscond. Although they have been naturalized both of them are apparently of Greek descent (having emigrated to this country only when comparatively grown up) and would presumably readily find asylum in Greece. They would be the more tempted to do so by

⁵ ***S v Nichas and Another*** 1977 (1) SA 257 (C)

*reason of the fact that no extradition treaty exists between Greece and South Africa."*⁶

This particular case highlights the Appellant's access to financial means. as he has a large congregation (according to the Appellant's counsel) and the likelihood that his church has other branches, which may allow him to abscond.

6.4 Contradictory Evidence and Lack of Candour: The magistrate correctly noted inconsistencies in the Appellant's evidence regarding his whereabouts at the time of arrest and the circumstances surrounding his identity documents. In **S v Mathebula**, Heher JA held that:

*'In the present instance the appellant's tilt at the State case was blunted in several respects: first, he founded the attempt upon affidavit evidence not open to test by cross-examination and, therefore, less persuasive: cf S v Pienaar 1992 (1) SACR 178 (W); at 180h; second, both the denial of complicity and the alibi defence rested solely on his say-so C with neither witnesses nor objective probabilities to strengthen them. The vulnerability of unsupported alibi defences is notorious, depending, as it does, so much upon the court's assessment of the truth of the accused's testimony. Insofar as the appellant suggested that the police had extracted an inadmissible confession from him (or his co-accused), he provided no detail which might have enhanced either his or their reliability or credibility.'*⁷

It was further held that:

"But a State case opposed in advance to be frail may nevertheless sustain proof beyond a reasonable doubt when put to the test. In order successfully to challenge the merits of such a case in bail proceedings an applicant needs to go further; he must prove on a balance of probability E that he will be acquitted of the charge: S v Botha en 'n Ander 2002 (1) SACR 222 (SCA)

⁶ **S v Nichas and Another** 1977 (1) 1977 (1) SA p263 at para G-H.

⁷ **S V Mathebula** 2010 (1) SACR 55 (SCA) at para 11.

*(2002 (2) SA 680: [2002] 2 All SA 577) at 230h, 232c; S v Viljoen 2002 (2) SACR 550 (SCA) ([2002] 4 All SA 10) at 556c. That is no mean task, the more especially as an innocent person cannot be expected to have insight into matters in which he was involved F only on the periphery or perhaps not at all. But the State is not obliged to show its hand in advance, at least not before the time when the contents of the docket must be made available to the defence; as to which see Shahalala and Others v Attorney-General, Transvaal and Another 1995 (2) SACR 761 (CC) (1996 (1) SA 725; 1995 (12) BCLR 1593). Nor is G an attack on the prosecution case at all necessary to discharge the onus; the applicant who chooses to follow that route must make his own way and not expect to have it cleared before him. Thus it has been held that until an applicant has set up a prima facie case of the prosecution failing there is no call on the State to rebut his evidence to that effect: S v Viljoen at 561f-g "*⁸

A lack of candour in a bail application is a relevant consideration in assessing credibility and the overall risk an accused may pose.

Disparity with Co-Accused.

[7] The Appellant's argument that he was treated differently from his co-accused is misconceived. The grant of bail is an individualised enquiry. The magistrate was entitled to find that the specific factors outlined above - particularly the Appellant's demonstrated ability to manipulate his identity and move across borders w1detected - distinguished his circumstances materially from those of his co-accused. The mere fact that others were granted bail does not automatically entitle the Appellant to the same outcome.

Other Grounds of Appeal

[8] The Appellant's challenge to the magistrate's findings regarding threats to witnesses and disregard for the law do not detract from the central. and decisive,

⁸ **S V Mathebula** 2010 (1) SACR 55 (SCA) at para 12.

finding on flight risk. Even if some of these subsidiary findings were debatable, they do not render the ultimate refusal of bail wrong. The magistrate's reasoning on the identity issue and border movements alone provides a sound and independent basis for the conclusion that the Appellant has not discharged the onus under section 60(11)(b).

Conclusion

[9] I am not satisfied that the magistrate's decision was wrong. On the contrary, the evidence regarding the Appellant's manipulation of identity documents and his ability to move across borders without detection provides a rational and compelling basis for concluding that there is a likelihood he will attempt to evade his trial if released. He has therefore failed to satisfy the court that the interests of justice permit his release on bail.

[10] As a result, the appeal must fail.

Order

1. The appeal against the refusal of bail is dismissed.

M S MAKAMU
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

For the Appellant: Adv Michael R Hellens SC
Assisted by: Adv Meiring
Instructed by: Ivan Monjane Attorneys

For the Respondent: Adv Phumla Dwanc-Alpman
Assisted by: Willem Johannes Van Zyl and Elizabeth Bisi

Instructed by: Director of Public Prosecutions

Date of hearing: 06 February 2026

Judgement delivered: 16 February 2026