

H. Mofokeng J

CRI/APN/44-45/80

IN THE HIGH COURT OF LESOTHO

In the Application of :

- ✓ 1. SELEBALO 'MANE)
- 2. SETOI KAO) Applicants

v

REX Respondent

REASONS FOR JUDGMENT

Filed by the Hon. Chief Justice, Mr. Justice
T.S. Cotran on 19th November, 1980

The first application for bail came before my brother Mofokeng on 20th October 1980 and again it came again before me a week later on the 27th October 1980. Mofokeng J gave no reasons for refusing bail but it may well be because on the papers it was so obviously not a case for granting bail. I have nevertheless considered the question afresh and perused further affidavits from the two applicants including the record of the Preparatory Examination.

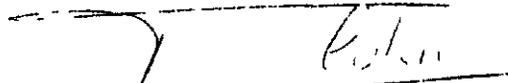
The principles upon which bail pending trial is granted or refused have been explained by the Lesotho High Court on not less than 6 occasions in the past two or three years. I need only mention Moletsane v. R. 1974-1975 LLR 272, Sekhalo v. R. CRI/A/15/77 (dated 22nd November 1977), Emmanuel Ntoi v. R. CRI/APN/20/77 dated 21st November 1977 and Meyer v. R. CRI/APN/4/77 dated 30th May 1977 - all unreported.

In this case the Director of Public Prosecutions has solemnly sworn that from information at his disposal the two accused persons are unlikely to stand trial and are likely to intimidate two Crown witnesses. It has been conceded by Mr. Kolisang that two Crown witnesses, one of them of tender years, live within the household of the two accused persons. I do not think it is practicable to make it a condition of bail that the two accused go and live elsewhere.

/The trial

The trial has already been fixed for 10th February 1980.

This is a case where the proper administration of justice may be defeated by the release of the accused on bail and it is accordingly refused.


CHIEF JUSTICE
19th November, 1980

For Applicants: Mr. Kolisang

For Respondent: Mr. Muguluma