



**HIGH COURT OF NAMIBIA, NORTHERN LOCAL DIVISION
HELD AT OSHAKATI**

APPEAL JUDGMENT

Case No.: CA 28/2016

In the matter between:

SIMON AMULENDA

1ST APPELLANT

JOHANNES NDASHAALA

2ND APPELLANT

and

THE STATE

RESPONDENT

Neutral citation: *Amulenda v State* (CA 28-2016) [2016] NAHCNLD 80 (7 September 2016)

Coram: NARIB, AJ

Heard: 2 September 2016

Delivered on: 7 September 2016

Flynote: Appeal. Bail. Onus. In a bail application, onus on the applicant to prove on the preponderance of probability that he/she should be released on bail, but where the applicant has disavowed any knowledge of the offence charged, it is incumbent on the State to produce some evidence that connects the applicant to the offence or offences on the basis of which bail is sought to be opposed.

Headnote: The appellants, together with a co-accused in the court a quo applied to be released on bail. They disavowed any knowledge of the offences with

which they had been charged. State failed to produce any evidence that connects the appellants to the alleged offences, except to show that they were in fact charged with the offences which were allegedly committed during the same month in respect of the robbery charges, and further, whilst appellant 2 was out on bail in respect of a further offences related to possession of firearms and ammunition without the requisite licences. Yet, one of the bases on which bail was successfully opposed in the court a quo was that the appellants have a propensity to commit crimes, and to do so jointly.

The State failed to produce any evidence of any of the offences with which the appellants were charged.

In the court quo, the bail application was dismissed and the accused were remanded in custody. In an appeal against the dismissal of the bail application:

Held, that the onus was on the appellants to prove on the preponderance of probability that they are suitable candidates for release on bail.

Held, further that the fact that the appellants have disavowed any knowledge of any of the offences with which they were charged, is in itself a sufficient answer to the question whether the appellants have a propensity to commit crimes, in the absence of any evidence from the State regarding any of the details of the charges faced by the appellants.

Held, accordingly that the decision of the learned magistrate, to refuse bail was wrong, and that this court was at large to set it aside and substitute it with its own decision.

ORDER

In the result I make the following order:

1. The appeal succeeds.
2. The decision of the Magistrate, Oshakati, under case No. OSH – CRM 2739/2015, dated 6 April 2016, is hereby set aside and substituted with the following order:

- 2.1 The appellants are granted bail in the amount of N\$2 500, each, on the following conditions:
- (a) That the appellants report daily between the hours of 08h00 and 18h00 to the Namibian Police at the Oshakati Police Station;
 - (b) That the appellants shall not leave the local authority area of the Municipality of Oshakati without the written authority of the Magistrate, Oshakati;
 - (c) That the appellants shall not during the time they remain on bail acquire or attempt to acquire any fire-arm or ammunition and shall surrender any fire-arm or ammunition which may hitherto have been in their possession to the Namibia Police at Oshakati Police Station;
 - (d) The appellants shall not in any way interfere with state witnesses or tamper with evidence;
 - (e) The appellants shall appear on the date and at the time to which their case has been remanded, in the Magistrate's Court, Oshakati;
 - (f) That the appellants shall on the day of the release on bail point out to Sergeant Kaluma or any other investigating officer of the Namibian Police who may be appointed to investigate their case, their respective residential addresses at Uupindi, Oshakati, and shall not whilst they remain on bail, move elsewhere for residence from such address or addresses without the knowledge and written permission of such an investigating officer;
 - (g) Any application for variation of the above conditions must be made to the Magistrate's Court, Oshakati.

JUDGMENT

NARIB AJ

[1] On 12 February 2016, the Magistrate Court for the District of Oshakati commenced to hear an application brought by the two appellants, as well as a co-accused, Amunyela Tuuthigilwa, to be released on bail. The appellants, together with the co-accused are charged in that court with an offence of robbery with aggravating circumstances under case No. OSH – CRM 2739/2015. The first appellant is accused No. 2 and the second appellant is accused No. 3 in that matter. All the parties were legally represented.

[2] The court a quo heard evidence from both the first and second appellants and the said Tuuthigilwa as well as from Sergeant Pendapala Kaluma, a Police Officer stationed at the Oshakati Police Station, Serious Crime Unit, and also heard the submissions made by the respective counsel.

[3] On 06 April 2016, the court a quo dismissed the appellants' application, rendering a reasoned judgment. This is an appeal against that dismissal, by the appellants only, the said Tuuthigilwa not having noted an appeal.

[4] The appellants initially attacked the judgment of the court a quo on eight grounds of appeal, as per their notice of appeal. Two of these grounds, namely grounds 7 and 8 have been abandoned, as per the appellants' Heads of Arguments and I do not have to mention them here. The remaining grounds of appeal are the following:

1. "The learned magistrate misdirected herself as regards the bail procedure, it being an application procedure and the rules of procedure when she found that counsel for the appellants had to place reasons for applying for bail on record and took a negative inference to the fact that counsel for the appellants informed the court that his procedure was new.
2. Alternatively, the learned magistrate erred in not considering the appellant's reasons for bail application as they were submitted and through evidence of the appellants as well as submissions by the appellant's legal counsel of record.
3. The learned Magistrate erred in fact and or law by finding that counsel for appellants does not know the purpose of bail as same was demonstrated right through the bail application.

4. Learned Magistrate erred in fact and or law by not taking the three (3) different applicants as separate applicants, judging each case by its own merits based on the personal circumstances of each appellant.
5. The learned Magistrate erred in law and fact by finding that the State has demonstrated a propensity to engage in criminal conduct on the parts of the appellants.
6. The leaned Magistrate erred in law and or fact by finding that release of the accuse persons on bail is not in the interest of justice.”

[5] Grounds of appeal 1, 2 and 3 are easily disposed of, and I shall do so, before dealing with the remaining grounds, and even before I deal with the testimonies on behalf of the respective parties to this appeal. As can be seen, ground 3 is not a ground of appeal at all, as it will in no way conduce to the resolution of any of the issues required to be dealt with in the appeal and I shall say nothing more about it.

[6] When the learned Magistrate commenced with the hearing of the appeal, she requested the appellants and their co-accused to state the grounds on which the bail application is founded. This did not sit well with Ms Amupolo for the appellants as well as Mr Shiningayamwe, who represented accused 1 in the court a quo. They both refused to provide such grounds, and Ms Amupolo stated that the application will be presented through oral evidence of the appellants.

[7] Grounds 1 – 2 are based on the above disagreement on the procedure and the following passage in the judgment of the court a quo.

“Accused 1 – 3 applied for bail on 12 February 2016 on which date both counsels for all accused refused to submit any grounds for their application for bail when the court instructed them to do so. Firstly, Mr Shiningayamwe refused to provide any grounds for bail on the submissions that such a request by the court is irregular and he will only provide his grounds for bail after the state has testified. Similarly, Ms Amupolo followed suite that it is the only court in which applicant’s (hereinafter referred to as the Accused) applying for bail is requested by court to provide their grounds for bail and similarly refused to provide such. Court notes that although having raised no authority for their position, the attitude of both counsel for accused, especially when the application started, was highly miss placed and uncalled for and has in many instances merely delayed the finalization of this application. Hereto, as for my authority, section

60 of Act 51 of 1977 as well as the magistrates court Act 32 of 1944 and its rules provide no pro-forma or format that the courts are bound to follow when holding bail applications and thus the format lies in the discretion of this court. This court used its discretion to apply the format used during this application in all its bail applications mainly because it causes no prejudice to the accused to firstly provide their grounds for bail and then the state to follow suite mainly and it complies with the audi alterem partem rule and clearly identifies all issues in dispute between both parties even before evidence is lead. By my experience, this format is known to speed up the application for bail process as parties now know what issues to concentrate on during the leading of evidence and thus also positively allows the urgency of the application to come to the fore from the start. This court thus finds that the defence's refusal to place their grounds for bail on the record was misplaced, irregular, without authority and bad in law. In casu, accused persons have therefore provided no ground upon which this court should consider their applications for bail and thus the court is only left to the peril of Section 60 of Act 51 of 1977."

[8] Firstly, if the above passage is considered in its proper context, it is clear that the intention of the learned Magistrate was only to focus the attention of the parties to the issues that would be contentious in the bail application, so as to avoid undue delay in the bail proceedings. She cannot be faulted for such a noble approach.

[9] Secondly, it is clear from the ratio of decision of the court a quo was that the appellants have a propensity to engage in criminal conduct, and more particularly, to do so, jointly, and further that in respect of appellant 2, his offence was committed while he was out on bail on another offence. The court a quo held further that the appellants did not discharge the onus that, if released on bail, they would abide by any condition set by the court. For these reasons, the court a quo found that the appellants are not suitable candidates for bail and that their release would not be in the interest of the administration of justice.

[10] It is accordingly clear that the fact that the appellants did not state their grounds did not prejudice them in the consideration of their bail application. I shall now consider the remaining grounds of appeal, in view of the evidence presented on behalf of the parties and the applicable legal principles.

Legal Principles

[11] This court may interfere with the decision of the court a quo, only when it is satisfied that the decision was wrongly made.¹ Section 64(4) of the Criminal Procedure Act, Act 51 of 1977 (as amended) provides that:

“(4) The court or judge hearing the appeal shall not set aside the decision against which the appeal is brought, unless such court or judge is satisfied that the decision was wrong, in which event the court or judge shall give the decision which in its or his opinion the lower court should have given.”

[12] The appellants bore the onus to prove on the preponderance of probability that the court should in the exercise of its discretion admit them to bail.²

[13] In my view, not only were the appellants required to show to the court on the preponderance of probability that they will not abscond or interfere with any witness or with the police investigation, if released on bail, but they also had to persuade the court that there would be no prejudice to the interest of the public or the administration of justice if they are not retained in custody pending the trial. This follows from the discretion a court hearing such a bail application has, in terms of section 61 of the Criminal Procedure Act, Act 51 of 1977 (as amended), which provides as follows:

‘If an accused who is in custody in respect of any offence referred to in Part IV of Schedule 2 applies under section 60 to be released on bail in respect of such offence, the court may, notwithstanding that it is satisfied that it is unlikely that the accused, if released on bail, will abscond or interfere with any witness for the prosecution or with the police investigation, refuse the application for bail if in the opinion of the court, after such inquiry as it deems necessary, it is in the interest of the public or the administration of justice that the accused be retained in custody pending his or her trial.’

¹ See: *S v Valombola* 2014 (4) NR 945 (HC) [Para 20]
Onesmus v The State (CA 01/2013 [2013] NAHCNLD 22 (22 April 2013))
S v Barber 1979 (4) SA 218 (D & CLD)

S v Timotheus 1995 NR 109 HC at 112
² See: *S v Dausab* 2011 (1) NR 232 (HC)
S V Du Plessis and Another 1992 NR 74 (HC)

[14] Robbery is referred to in Schedule IV of the Criminal Procedure Act, 1977 (as amended).

[15] It was for this reason incumbent on the appellants to show that their release on bail would not prejudice the interest of the public or the administration of justice, in addition to satisfying the court that they would not abscond, or interfere with any witness for the prosecution or with the police investigation.

[16] This court, in the matter of *S v Dausab*,³ recognised the fundamental differences in the provisions relating to bail in terms of the Criminal Procedure Act, 1977 and the legal provisions applicable in the Republic of South Africa. The court pointed out, in that matter, that s. 60 of the Criminal Procedure Act, 1977 was amended extensively in the Republic of South Africa, and now consists of 11 subsections. The position in the Republic of South Africa is that an accused who is in custody is entitled to be released on bail and it is for the State to prove why such an accused should not be release. Only where the provisions of s. 60 (11) are applicable, that is, where an accused who is in custody is charged with a serious offence, is the burden on the accused to satisfy the court that “exceptional circumstances exist which in the interest of justice permits his or her release.”⁴

[17] This court has held that the fact that the onus is on the accused to satisfy the court on the preponderance of probability that he or she should be released on bail, does not infringed the provisions of Article 10 and Article 7 of the Namibian Constitution.⁵ The court referred with approval to the decision of *S v Du Plessis*⁶ and stated the following:

“[28] O’Linn J, in this matter cautioned against the selective emphasis placed by some accused persons and their legal representatives on certain sections of the Namibian Constitution and certain fundamental rights such as “the liberty of the subject,” ‘a fair trial’ and the principle that an accused person is “regarded as innocent until proven guilty” and stated that these very important fundamental rights, are however, not absolute but are circumscribed and subject to exceptions. I endorse this approach.”

³ *Supra*, at fn2

⁴ See Para 18 of the judgment.

⁵ See *S v Dausab*, *Supra* Para 26

⁶ 1992 NR 74 (HC)

[18] This court went on to state:⁷ “[29] The following appears at 75D of the judgment: ‘The particular right relied on must be read in the context with other provisions of the Constitution which provides for the protection of the fundamental rights of all the citizens or subjects, provides for responsibilities of the subjects, for the maintenance of law and order, for the protection of the very constitution in which the rights are entrenched and for the survival of a free, democratic and civilised state.’”

[19] It would seem to me that the decision in *Unengu v State* (CA 38/2013) [2013] NAHCMD 202 (18 July 2013), relied on by counsel for the appellants proceeded from the wrong premise that the onus was on the State to prove on the preponderance of probability that there is a strong case that the accused committed the offence with which he or she has been charged. In that case, the court stated the following:

“Although the state is not required to prove its case beyond reasonable doubt during a bail application, it should at least lead sufficient evidence aimed at alleging and proving commission of an offense on the basis of which court can conclude that there is a strong case that the accused committed such act.”

[20] In my respectful view, the above dictum goes against the weight of authority that cast an onus on an accused who is in custody to prove that he or she should be released on bail. It puts too much emphasis on the requirement of “a strong case” at the expense of other considerations, such as the interest of the public or the administration of justice which are referred to in s. 61 of the Criminal Procedure Act, 1977. In my respectful view, it is for the accused to show that he or she should be released on bail. The role of the court should be to allow proper inquiry to take place, without unduly prejudicing the right of the accused to remain silent, as bail proceedings may be used in subsequent criminal proceedings.⁸ It should conduct the inquiry in such a manner that allows the accused to (if he or she can) discharge the onus placed on him or her, by making available the facilities required by the accused, and without unduly prejudicing the right of the accused not to incriminate himself or herself or the right to remain silent. In other words, the accused must be allowed to make informed choices on the conduct of his or her bail application.

⁷ *S v Dausab*, supra.

⁸ See: *S v Malumo and 111 others* (2) 2012 (1) NR 244 (HC) and the authorities there referred to.

[21] The words “after such an inquiry” as they appear in s. 61 of the Criminal Procedure Act, 1977, referred to above can, in my view, not be construed to mean that the inquiry may be conducted in a manner that would render the subsequent criminal trial unfair. Yet, the accused in custody still bears the onus to satisfy the court that he or she should be released on bail. The accused must for this reason be allowed to make informed choices as to how he or she wants to proceed in the bail application, which witnesses to call and what question to put in cross examination to the witnesses called on behalf of the State.

[22] During argument, Ms Amupolo, on behalf of the appellants set great store by the fact that no previous convictions were established against the appellants in the bail application and that the other matters against them are all pending matters in which there has been no conviction or sentence. The import of her argument appears to be that such pending matters could not be taken into account for purposes of showing that the appellants have a propensity to commit crimes. In my view, the answer to this submission lies in the decision of *Onesmus v The State* (CA 01/2013) [2013] NAHCNLD 22 (22 April 2013) where the following was stated: “[11] Though it is correct to say that the appellant has yet not been convicted on the charges preferred against him in the (other) pending cases, the court a quo however did not misdirect itself and was entitled to take into consideration the fact that there was sufficient evidence against the appellant in these cases to put to him to trial.”

[23] Except to say that the interest of the public or the administration of justice may, in certain circumstances require that an accused not be release on bail, even if there is not sufficient evidence at that stage to put an accused to trial, it is clear that pending matters may have a bearing on the decision whether an accused who is in custody for an alleged offence referred to in Schedule IV of the Criminal Procedure Act, 1977 (as amended), should be released on bail.

[24] I shall now proceed to consider the remaining grounds of appeal against the backdrop of the above legal principles and in view of the recorded evidence on behalf of the appellants and the State, respectively. In view of the reasons for the decision of the court a quo, and in particular, the bases thereof, it is necessary for me only to refer to the specific aspects of the evidence that is germane to that decision.

Evidence on behalf of appellant 1

[25] Appellant 1 testified in person and did not call any other witness. He testified in chief that he had two pending cases, including the present matter. He is in custody in the other matter as well, and was in fact charged with the present offence whilst he was in custody on the other matter. He refers to that matter as the Omungwelume matter.

[26] His evidence further was that if granted bail with conditions, he will abide by the conditions, including reporting at the police station in Oshakati. He can afford bail of N\$1 500.

[27] During cross-examination, he revealed that the other charge he faces is a count of housebreaking with intent to rob and robbery. He testified that he has no idea as to when the offence in the present matter or the other offence was committed. He disavowed any knowledge of the respective offences.

[28] He confirmed that he remains in custody on the other offence and that if granted bail, he will also apply to be released on bail in the other matters.

Evidence on behalf of appellant 2

[29] Appellant 2 also testified in person and did not call any other witness. He testified that he has three pending criminal cases, including the present matter. The first case is that of possession of a fire arm without a licence, where he was charged in 2014. The second case he refers to as the Omungwelume matter. It is clear from his evidence under cross-examination that appellant 1 and Appellant 2 are also co-accused in the case they refer to as the Omungwelume matter. The charge in that matter is of armed robbery and housebreaking. He remains in custody on that matter.

[30] If granted bail, he can afford N\$1 700 and he will abide by the bail conditions. He plans to apply for bail in what he calls the Omungwelume matter as well. He is on bail in the 2014 matter concerning the unlawful possession of firearms and ammunition. He says that he is not guilty in the present matter.

[31] During cross-examination, he denied having committed crimes and said that the police merely arrested him.

Evidence on behalf of the State

[32] Sergeant Pendapala Kaluma testified on behalf of the state. He was against the appellants being released on bail because the charges the appellants are facing have become a lot, and there is an outcry in the community and that the community wants to be protected. Sergeant Kaluma confirmed the various charges pending against the appellants, which I have referred to above. He also confirmed that the offence in the present matter was committed during the same month the offence in the Omungwelume matter was committed. His opinion was that the appellants will not abide to bail conditions and that it is dangerous to the community for the appellants to be released on bail.

[33] During cross-examination, Sergeant Kaluma testified that there was a firearm used (presumably, during the robbery) and that firearm was still not recovered by the police. He said that he was in possession of all the (witness) statements and that should the firearm be recovered, the investigations would be complete.

[34] A glaring omission from the evidence of the respective parties is that the court was not informed of the specific circumstances in which the respective offences were allegedly committed, nor of the circumstances under which the appellants and their other co-accused were initially arrested. The details of the respective offences were also not mentioned except that in respect of appellant 2, details of the various charges under the provisions of the Arms and Ammunition Act 7, of 1996 (as amended) can be gleaned from the court record which was received as Exhibit D in the court a quo.

[35] It seems to me, from the appeal record, that both the appellants and the state played their cards too close to the chest, and not sufficient insight was provided into the respective counts faced by the appellants. The appellants, of course, denied any involvement in any of the offences with which they have been charged, and as we have seen before, also refused to initially state the bases on which the respective applications to be released on bail were founded.

[36] I shall now turn to the remaining grounds of appeal.

[37] It is clear from the judgment of the court a quo that the learned magistrate initially considered evidence against each of the appellants and their co-accused at the court a quo, separately only and then had regard to that evidence as a whole. The learned magistrate first summarised the evidence against each of the appellants separately. The summary, it seems to me, is complete in every material respect, regarding the evidence that was placed before the learned magistrate, and the material aspects of which I restated in the summary of the evidence of the respective witnesses set out herein.

[38] The learned magistrate then proceeded to examine the cumulative effect of that evidence, when she made a finding that is attacked as per ground 4 of the grounds of appeal. The court a quo added up the number of cases pending against the respective accused persons and further took into account that they are all co-accused, for the offences committed during a single month. From this, the court a quo concluded that the appellants have a propensity to engage in criminal activity together.

[39] I do not find any fault with the fact that the learned magistrate attempted to consider the cumulative effect of the various offences with which the appellants were charged, to conclude that they have a propensity to jointly engage in criminal activity. In my view, ground of appeal 4 No. 4 has no merit.

[40] However, I am of the view that the fact that the appellants and their co-accused in the court a quo were charged with having committed the offences together is not in itself sufficient to conclude that they have the propensity to commit crimes. More was required for the court to hold a prima facie view that this was indeed the case. As I have said, no details of the alleged robberies were provided, except that in respect of the present matter in which bail is sought, a gun was seemingly used to commit the offence and that the gun remains outstanding.

[41] The court was not even informed of how the police know about the gun.

[42] Details such as, who was robbed, the value involved, the alleged number of persons involved, whether anyone was injured, the methods allegedly used by the

appellants and the like are absent from the record. In my view, these matters should have been canvassed, particularly in view of the testimony of the appellants that they know nothing about these offences.

[43] Ground of appeal No. 5 thus has some merit, but it is not properly formulated. As it stands, it is formulated as if the onus was on the State to demonstrate that the appellants had a propensity to engage in criminal conduct. As we have seen above, the onus remained on the appellants to show that they are suitable candidates for release on bail. In the absence of details relating to the charges on which the appellants are held in custody, and a lack of reasons why such details could not be provided, the fact that they have denied any involvement in the respective offences is, in my view a sufficient answer to the question whether they have propensity to commit crimes. After all, it was the fact that an accused is not required to mount a bail application in the dark, but was informed of the charges against him and that he has been provided with the witness statements and knew of the reasons why the State was opposing bail, that persuaded this court in the matter of *S v Dausab*⁹, supra, that the onus on the accused to show that he or she is a suitable candidate for release on bail is not unconstitutional.¹⁰ The learned magistrate's finding on this ground of appeal is for this reason, with respect, wrong.

[44] As regards ground No. 6, I do not see any evidence on record that would suggest that the administration of justice would be prejudiced by the release of the appellants on bail. The mere say so of Sergeant Kaluma, without providing any evidential basis for his opinion is, in my view, not sufficient. Once again, the appellants have denied any involvement in the commission of the offences with which they had been charged and have stated under oath that they have no knowledge of the circumstances under which these offences were committed.

[45] The State should, for this reason have produced evidence on the basis of which the court could conclude that the release on bail of the appellants would not be in the

⁹ Fn 2, supra

¹⁰ See *S v Dausab*, supra at fn6, at para 25

interest of justice, that is, that the administration of justice would be prejudiced by such release¹¹.

[46] I have for these reasons come to the conclusion that the decision of the court a quo was wrong and that on the available evidence, the appellants should have been released on bail. This court is for that reason at large to make the decision which in its view, the court a quo ought to have made.

[47] As I have said before, the circumstances under which the appellants were initially arrested were not placed on record. The record does not indicate how and when the appellants were arrested. Furthermore, the appellants have not provided fixed residential addresses. Appellant 1 is said to reside at Uupindi. Appellant 2 also testified that before his incarceration he stayed in Oshakati Uupindi. However, Exhibit D clearly indicates that even though he was released on bail, appellant 2 always attended the court proceedings related to the provisions of the Arms and Ammunition Act, 1996. In the circumstances, it is my view that strict bail conditions should be imposed in view of the fact that appellants did not provide fixed residential addresses.

[48] In the result I make the following order:

1. The appeal succeeds.
2. The decision of the Magistrate, Oshakati, under case No. OSH – CRM 2739/2015, dated 6 April 2016 is hereby set aside and substituted with the following order:
 - 2.1 The appellants are granted bail in the amount of N\$2 500, each, on the following conditions:
 - (a) That the appellants report daily between the hours of 08h00 and 18h00 to the Namibian Police at the Oshakati Police Station;
 - (b) That the appellants shall not leave the local authority area of the Municipality of Oshakati without the written authority of the Magistrate, Oshakati;
 - (c) That the appellants shall not during the time they remain on bail acquire or attempt to acquire any fire-arm or ammunition and shall

¹¹ I specifically do not include the question of interest of the public as it seems not to have been the basis of the decision of the court a quo

surrender any fire-arm or ammunition which may hitherto have been in their possession to the Namibia Police at Oshakati Police Station;

- (d) The appellants shall not in any way interfere with state witnesses or tamper with evidence;
- (e) The appellants shall appear on the date and at the time to which their case has been remanded, in the Magistrate's Court, Oshakati;
- (f) That the appellants shall on the day of the release on bail point out to Sergeant Kaluma or any other investigating officer of the Namibian Police who may be appointed to investigate their case, their respective residential addresses at Uupindi, Oshakati, and shall not, whilst they remain on bail, move elsewhere for residence from such address or addresses without the knowledge and written permission of such an investigating officer;
- (g) Any application for variation of the above conditions must be made to the Magistrate's Court, Oshakati.

G NARIB, AJ

APPEARANCES:

FOR THE APPELLANTS:

Ms Amupolo

Legal Aid – Oshakati Magistrate

FOR THE RESPONDENT:

Adv. Gaweseb

Office of the Prosecutor-General