



## State suffers huge blow in rhino case

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The State has suffered a huge blow in a rhino smuggling case, after the Windhoek Regional Court in Katutura ruled that the evidence three of the four accused gave in their bail hearings cannot be used in their trial. Li Xiaoliang, Li Zhibing, Pu Xuexin, whose bail evidence was ruled on, appeared with Wang Hui yesterday. They were arrested for trying to smuggle 14 rhino horns worth more than N\$2.3 million and a leopard skin worth N\$50 000 out of Namibia last year. The items were found in two luggage bags at the Hosea Kutako International Airport on March 24 last year. Magistrate Alexis Diergaardt said yesterday the evidence given by Li, Li and Pu at their bail hearings was obtained unconstitutionally, especially because the three accused are not Namibian and their rights should have been explained to them. She said if evidence is obtained in an

unconstitutional manner, this would amount to an unfair trial. Diergaardt said it was a failure of justice that the accused had not had their rights explained to them. State prosecutor Simba Nduna had applied for the bail proceedings to be submitted into evidence, but defence lawyer Orben Sibeya objected, saying the court was dealing with the violation of an accused's constitutional rights not to incriminate themselves and to not be compelled to testify against themselves. He argued that Li, Li and Pu were not informed that anything that they say during a bail hearing may be used during a trial, and their rights were not explained to them by the magistrate, their legal representative at that time or even the prosecutor. During these bail proceedings all three accused testified about the luggage containing the rhino horns and their stay in Namibia, as well as how they came to be in possession of the bags, when the bags were found at the airport and their knowledge of the contents. Diergaardt said in her ruling that it is the duty of the presiding officer to inform the accused of their constitutional rights. Court records showed the accused had also not been informed of their rights by the magistrate or the prosecutor. Diergaardt upheld the objections of the defence and said the bail proceedings will not be accepted into evidence. Meanwhile, the State has indicated it has some new information that it is verifying. Sibeya said the defence has a problem with the fact that the State was now coming with new information that it had not yet disclosed, after indicating that it wanted to close its case after the ruling on the evidence in the bail proceedings. Nduna said that at this stage he does not want to close his case and he does not want to go into detail about the new information that has been received, until it has been verified. Diergaardt granted a final postponement until December 9 for the continuation of the trial. ELLANIE SMIT



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