



## Rhino horn accused fights for bail

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One of three suspects, who were denied bail by the Oshakati Magistrate's Court after allegedly being found in possession of two rhino horns, is appealing the decision in the Oshakati High Court.

Petrus Mashuna (35) from Iitapa village in Omusati is hoping to reverse the decision by Magistrate Makapa Castro Simasiku to deny him bail. Mashuna is facing a charge of possession of specially protected wildlife, after he was arrested with Frans Kiinge (35) and Leonard Ndapo (21) at Omungwelumbe in Oshana on 27 October 2017 with two freshly removed rhino horns in the boot of the car he was driving.

He told the court he had no knowledge of the rhino horns and the bag in which they were found was possibly the property of the other two suspects.

He also testified the car belonged to his brother and a number of people had access to it prior to his trip. On 12 January, the trio applied for bail, but Magistrate Simasiku remanded them in custody because of the seriousness of the offence, amid fears they would abscond.

Mashuna, through his legal counsel from Ellis Shilengudwa Incorporated, launched an appeal on 15 February.

He is arguing Simasiku should have raised the possibility of abscondment during the bail application.

"The learned magistrate misdirected himself, alternatively erred in law, when he dismissed the bail application on the grounds that there is a likelihood the appellant will abscond, while that was not the grounds on which the state prosecutor opposed the bail application," Mashuna's legal counsel said in the appeal court papers.

Simasiku said in his reply on 23 March to the notice of appeal that he stands by his ruling.

"It is trite law that the seriousness of the offence and the severity of punishment in case of conviction, are factors that may induce one into absconding. In as much as the state did not categorically state the risk of abscondment as its grounds for opposing bail, this is what it meant, as is clear from their cross-examination of the applicants and the evidence-in-chief. The applicants equally appreciated this, hence they denied the risk of absconding in their evidence," Simasiku said.

The matter was expected to be heard yesterday. However, it could not go ahead as the court was informed that Judge Werner Januarie was not feeling well.

The bail appeal application was thus postponed until 22 June for a ruling.

The state is represented by Jatiel Mudambiri, while Petrine Hango from Dr Weder, Kauta and Hoveka represented Mashuna, on instruction from Ellis Shilengudwa Incorporated.

KENYA KAMBOWE



(<https://d3rp5jatom3eyn.cloudfront.net/asse-horn-accused-fights-for-bail2018-05-230.jpg>)

SERIOUS OFFENCE: A rhino horn smuggling suspect is appealing a decision to deny him bail.  
PHOTO: NAMPA