

Zimbabwe: No Bail for Gwisai

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Harare — FORMER Highfield legislator Munyaradzi Gwisai and five other suspects accused of treason have a case to answer, a Harare magistrate has ruled.

However, the other 39 were set free for lack of incriminating evidence.

The 45 were arrested for allegedly plotting an Egypt and Tunisia style uprising to illegally oust a constitutionally-elected Government two weeks ago.

Gwisai (46), Antonetta Choto (36), Tatenda Mombeyarara (29), Edson Chakuma (38), Hopewell Gumbo (32) and Welcome Zimuto (25) had their application for refusal of further remand thrown out and were remanded in custody to March 21 pending trial.

Magistrate Mr Munamato Mutevedzi ruled that the six ringleaders were key participants in the alleged plot while the 39 others were simply listening.

"It is not an unreasonable inference to assume that the six accused persons were acting in common purpose and by inciting other attendants, it could have definitely constituted an offence.

"The viewing of video footages was clearly shown to incite those who were present, but the question as to whether such acts are treasonous or not is a triable issue and not for this court.

"The discussions were not idle, but seriously meant to incite others and also culminated into conspiracy," said Mr Mutevedzi.

Mr Mutevedzi said the six allegedly did both acts of incitement and conspiracy hence there was reasonable suspicion that they committed or were about to commit the offence of treason or to subvert a constitutional Government.

Although the magistrate agreed with the defence, which cited a South African case, the State versus Banda and others (1990), he said the case law should not be read in isolation.

The case law reads in part: "A mere discussion of the possibility of 'acts of treason', not resulting in an agreement or including any mutual incitement does not amount to high treason."

Said Mr Mutevedzi: "I agree with the dictum of the South African case as quoted by the defence counsel, but this must not be read in isolation, it was made in a contested trial."

Earlier, the defence - while making their application of refusal of remand - had submitted that the current Government was not a constitutional Government but a political one founded by political parties.

Mr Mutevedzi, however, could not agree with the defence on that point.

He said the Government was set up through "Amendment Number 19", which was brought through a constitutional process and passed by elected parliamentarians.

Refusing to remand the other 39, Mr Mutevedzi ruled that the State had not given enough facts to warrant their placement on remand.

"It is however, worrying that the State did not particularise what accused four, eight to 45 did.

"I have no doubt that it was a dragnet arrest by the police without verifying what each and every one of them did and the law does not allow that.

"(The) State had to show that these (39 accused) had the intention to do what had been incited, mere listening to treason utterances, is not treason in itself."

During cross-examination by the State, Gwisai had said that the meeting was an internal educational one, which was meant to discuss the concept of democracy within the context of recent events in Egypt.