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Criminal Procedure Investigation and Sentencing

Assignment 1
Bail Application Words: 1448

IN THE MAGISTRATES' COURT
IN THE STATE OF VICTORIA
AT MELBOURNE Court Reference: BDP 123

IN THE MATTER OF:

VICTORIA POLICE Applicant

And

JOHN SMITH Accused

SUBMISSIONS – APPLICATION FOR BAIL

I Background

The background to this bail application is that Mr John Smith aged 30 years of age has been charged with 'causing serious injury recklessly' pursuant to section 17 of the Crimes Act 1958 (Vic).¹ He has been consequently arrested by the police and is remanded in custody. A bail hearing has been arranged at the Magistrates Court later that day.

John Smith is in a long-term relationship with his current wife Jane for over five years in Footscray and he is gainfully employed in the security industry earning a healthy \$100,000 per annum.

II Statutory Provisions

Under the Bail Act 1977 (Vic) (BA) s 4² a person being held in custody for that offence is prima facie entitled to bail unless the decision maker is required to refuse bail.

There is a two-step process to begin with in a bail application and the first step relates to which schedule the offence in question fits into, sec 4AA of the BA.

¹ Crimes Act 1958 (Vic) s 17

² Bail Act 1977 (Vic) s 4

IN THE MAGISTRATES' COURT
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SUBMISSIONS – APPLICATION FOR BAIL

I. INTRODUCTION (Bail is a right)

1.1 Introduction

The legal principle that a person charged with a crime is entitled to bail is a fundamental principle of the criminal justice system. It is a right that is granted to a person charged with a crime unless the court is satisfied that there are reasons why bail should not be granted. The court must consider the interests of justice and the safety of the community in determining whether bail should be granted.



1.2 Background of the case

1.3 Statutory provisions

The Bail Act 1977 (Vic) provides the legal framework for the grant of bail. Section 4 of the Act states that a person charged with a crime is prima facie entitled to bail unless the court is satisfied that there are reasons why bail should not be granted.

Section 4AA of the Act provides that a person charged with a crime is prima facie entitled to bail unless the court is satisfied that there are reasons why bail should not be granted. The court must consider the interests of justice and the safety of the community in determining whether bail should be granted.

Section 4AB of the Act provides that a person charged with a crime is prima facie entitled to bail unless the court is satisfied that there are reasons why bail should not be granted. The court must consider the interests of justice and the safety of the community in determining whether bail should be granted.

Section 4AC of the Act provides that a person charged with a crime is prima facie entitled to bail unless the court is satisfied that there are reasons why bail should not be granted. The court must consider the interests of justice and the safety of the community in determining whether bail should be granted.

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