

7/97

SUPREME COURT OF VICTORIA — COURT OF APPEAL

DUNG NHU TRINH
NICHOLAS FARID WAKIM

Winneke P and Hayne JA

2 December 1996

BAIL – APPLICATION FOR PENDING APPEAL – EXCEPTIONAL CIRCUMSTANCES REQUIRED TO BE SHOWN – EFFECTIVE PART OF CUSTODIAL SENTENCE WILL BE SERVED BEFORE APPEAL HEARD – WHETHER EXCEPTIONAL CIRCUMSTANCES SHOWN.

HELD: Exceptional circumstances shown. Each applicant granted bail pending appeal.

1. Dung Nhu Trinh

Winneke P: *[After referring briefly to the sentence imposed, His Honour continued]... [1] "On this application the material indicates that the application for leave to appeal will not be capable of being heard until such time as the effective custodial part of the applicant's sentence has been served. Accordingly we are of the view that the circumstances relied upon as the main ground of this application are, within the meaning of the relevant authorities, exceptional and warrant the grant of bail pending appeal..."*

2. Nicholas Farid Wakim

Winneke P: *[After referring briefly to the sentence imposed, His Honour continued]... [1] "The ground of this application principally is that this Court will be unable to determine those applications until the custodial portion of the applicant's sentence has been served, and the material which has been placed before us on affidavit confirms the substance of that ground. This Court has regarded in the past such a ground as constituting exceptional or very exceptional circumstances warranting the grant of bail pending appeal, and accordingly we will grant this application and release the applicant on bail pending appeal..."*
