

TANZANIA / JUDGMENT

final ruling bail HAMIS JUMA HAMISI Tanzlii

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12 August 2024

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IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA SUB-REGISTRY OF MOSHI AT
MOSHI CRIMINAL APPLICATION NO. 21739/2024 (Arising from the High Court of Moshi at Moshi
in Criminal Session Case no. 15761 of 2024) HAMIS S/O JUMA
HAMISI.....APPLICANT VERSUS
REPUBLIC.....RESPONDENT

RULING

12th August, 2024. A.P. KILIMI, J.: The applicant mentioned herein above is praying to be released on bail under section 148 (3) of the Criminal Procedure Act Cap 20 R.E 2022 'CPA'. He has supported this prayer by the affidavit of Mr. Emmanuel B. Shayo who is the advocate duly instructed to represent him. When the matter came before me for hearing, Mr. Wilhard Kitali appeared holding brief of Mr. Emmanuel B. Shayo with instruction to proceed, whereas the Republic was represented by the Ruth Emmanuel Kamola, learned State Attorney. 1 It was Mr. Kitali submission that, this is an application for bail under section 148(2) (3) of CPA, he then prayed this court to adopt the affidavit filed. He further submitted that the applicant is charged for manslaughter under section 195 and 198 of Penal Code, in Criminal Session No. 15761 of 2024 of this High Court, therefore since bail is the constitutional right as per Constitution of United Republic of Tanzania by virtue of article 15(1) and 13, thus prayed for bail be granted to the applicant because his client is ready to comply with the conditions which will be provided. Responding to the above, Ms. Kamola contended that according to paragraph 3 and 5 of the applicant's affidavit it is not true that the applicant was charged and arraigned at Moshi District court but it was at Same District Court P.1 Case No. 7928 of 2024 and it was for the offence of Murder. In rejoining his submission Mr. Kitali prayed this court to drop or to expunge paragraph 3, 4 and 5 and insisted that the applicant was arranged by manslaughter in Criminal Session No. 15761 of 2024 before this court when the matter was for Preliminary Hearing on 30/7/2024, thus prayed the applicant be granted bail because the offence charged thereat is bailable and no object filed by the respondent. 2 Ms. Kamolo prayed for leave of few minutes to peruse the said PH file of this court in order to be acquainted of the same. When she appeared after perusal, the learned state Attorney had no objection and prayed this court to set the conditions according to the gravity of the offence charged. Having considered the submissions above, first and foremost I

hereby expunge the said paragraphs in the applicant's affidavit. Therefore, since the remaining paragraphs are enough for this court to consider the prayers sought, I am settled that the applicant is charged for the offence of manslaughter which is bailable offence, and since there is no any objection from the republic and the fact the applicant through his counsel has assured this court to comply with conditions of bail. I find the purpose of granting bail which is to ensure an accused person enjoys his freedom as long as he shall appear in court for his trial will be met; (see Hassan Othman Hassan @ Hassanoo v. Republic, Criminal Appeal No. 193 of 2014, CAT at Dar es salaam (unreported). Having said so and noting of the law regulating bail under section 148, I have decided to grant bail to the applicant as prayed. However, in order to be released from custody, the applicants must fulfil the following listed conditions: 3

- a. That, the applicant to have two reliable sureties.
- b. The sureties must have introduction letters from local Authority. If any is an employee, introduction letter should come from employer. They must produce identity cards or National identity card. The copy of the card be filed in the court file.
- c. That, each surety will sign a bond of Tshs. 1,000,000/=
- d. The applicant himself shall sign a bail bond of Tshs. 2,000,000/=
- e. The applicant is restricted from travelling outside Kilimanjaro Region, unless permitted by the Deputy Registrar.
- f. The applicant and the sureties will have to give proper addresses, locations of their place of residence and phone numbers for easy of tracing them when need arises. The sureties and applicant are required to comply with the conditions of bail set above and they should appear before the Deputy Registrar of this court for approval of the same. In the circumstances the application is granted upon fulfilling the above conditions. 4 It is so ordered. DATED at MOSHI this 12th day of August, 2024. X JUDGE Signed by: A. P. KILIMI
Court: Ruling delivered today on 12th day of August, 2024 in the presence Ms. Ruth Emmanuel Kamola learned state Attorney for the respondent and Mr. Wilhard Kitili for the Applicant who is also present. Sgd: A. P. KILIMI JUDGE 12/08/2024 Court: Right of Appeal explained. Sgd: A. P. KILIMI JUDGE 12/08/2024 5

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