

TANZANIA / JUDGMENT

james komba v the republic

2023 tzhc 18244 8 june 2023

COURT
TZHCDECIDED
8 June 2023

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA (SONGEA DISTRICT REGISTRY)
AT SONGEA MISC. CRIMINAL APPLICATION NO. 02 OF 2023 (Originating from Namtumbo
District Court in Criminal Case No, 78 of 2022) JAMES KOMBA..... APPLICANT VERSUS THE
REPUBLIC RESPONDENT

RULING

Date of Last Order: 31/05/2023 Date of Ruling; 08/06/2023 U. E. Madeha, J. This is an application for extension of time filed by way of Chamber summons and affidavit. The application is made under section 361 (1) &.

- (2) of the Criminal Procedure Act (Cap. 20, R. E. 2022). The brief back ground of this application as depicted in the affidavit sworn by the Applicant and the original records of the trial Court are to the effect that: Before the District Court of Namtumbo, the Applicant was charged with the offence of rape contrary to sections 130 (1) & (2) (e) and i 131 (1.) of the Penal Code (Cap. 16, R. E. 2022). On 7th March, 2023 he was convicted and sentenced to serve thirty (30) years in prison. Two days from the date of conviction he wrote a letter to the Trial Court requesting to be supplied with the copy of the judgment and the proceedings. At that time, he was serving his sentence at Songea Remand Prison. Before he was supplied with the copies of judgment and decree, he was sent to Katai Prison where he stayed for three weeks before he was taken back to Songea Prison. When he reached at Songea Prison he found the copies of the judgment and proceedings has been supplied via the Prison Officers and he was already out of time to file the notice of intention to appeal and petition of appeal. After been served with the copies of judgment and proceedings he decided to file this application. At the hearing of this application the Applicant appeared in person, whereas the Respondent was represented by none other than; Ms. Generoza Montana, the learned State's Attorney. In addition to his affidavit the Applicant argued that the delay in filing a notice of intention to appeal and the petition of appeal was beyond his control since everything was controlled by the Prison Officers who also 2 sent him to Kitai Prison. Basing on those facts, he prayed for his application for an extension of time to file the notice of intention to appeal and petition of appeal to be granted. On the other hand, the State's Attorney had no objection to the Applicant's application for extension of time to file a notice of intention to appeal and

petition of appeal. As much as I am concerned and having gone through the affidavit in support of this application, this Court is convinced that the Applicant has adduced genuine reasons for this Court to use its discretion power to grant extension of time. I find that the Applicant was prompt and diligent in dealing with his appeal which is a sufficient reason for extension of time. Conclusively, I hereby grant the prayer for extension of time to file notice of intention to appeal. The Applicant is required to file notice of intention to appeal and petition of appeal within fourteen days from the date of this ruling. It is so ordered. 3 DATED and DELIVERED at SONG is. 8th daypf June, 2023. U. E. MA JUDGE 08/06/2023 COURT: Ruling is read over in the presence of the Applicant and Mr. Madundo Mhina, State Attorney representing the Respondent. Right of appeal is explained. A JUDGE 08/06/2023 4

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