

TANZANIA / JUDGMENT

CRIMINAL APPEAL MWENURA ROBERT

COURT
TANZLII

DECIDED
23 December 2024

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IN THE HIGH COURT OF TANZANIA MUSOMA SUB-REGISTRY AT MUSOMA MISC. CRIMINAL APPLICATION NO. 000034430 OF 2024 REFERENCE NO. 202412102000034430 (Arising from P I No. 20231110000036788 o f 2023 o f the District Court o f Musoma) MWENURA ROBERT..... APPLICANT VERSUS THE REPUBLIC..... RESPONDENT

RULING

23rd & 23rd December, 2024 M, L. KOMBA.: The present application was brought with chamber summons accompanied by affidavit of Mwenura Robert. The application followed a cancellation of bail granted to the applicant by the District Court of Musoma (the committing court) in PI Criminal Case No. 20231110000036788 (the PI case). On the last day of the proceedings the committing court committed accused person to this court and cancelled his bail as per this court directives and law. Page 1 of 4 During hearing the applicant was represented by Mr. Wambura Kisika while Republic was represented by Mr. Jonas Kivuyo and Joyce Matimbwi, a State Attorneys. Mr. Kisika present that applicant has been committed to High Court and following that committal his bail was cancelled and he prayed for bail pending hearing of the Criminal Session number 202411292000033638, he promising to adhere to conditions set by this court. Meanwhile Mr. Kivuyo informed this court that the offence which applicant is charged is bailable, further applicant had good behavior while on lower court bail, he conceded to the prayer while requesting this court to impose conditions if is pleased to grant the prayer. I find the offence which constitutes the crime in this application is bailable (Manslaughter). Am aware of the Judiciary of Tanzania Bail Guidelines issued by Hon, Chief Justice on 10th September 2020, item 3.2 of the Guidelines, the possibility that accused person may abscond bail, is one of the imperative factors to be considered in granting bail. Applicant in this application was under committal court bail and all the time he observed conditions imposed to that bail as submitted by State Attorneys and, that entrusted this court to consider the application. It should further be noted that if the offence is bailable, then, bail condition set must be reasonable unless for the serious Page 2 of4 offence, where the condition must be stiff. Failure to fulfil conditions set, applicant will be deprived of her liberty. See Francis Davis Mchacky & Ten Others V. Republic, Misc Criminal Application No. 14 of 2022. Having that in mind while noting the law regulating bail under section 148 (1), (6) and 7 of the Criminal Procedure Act, Cap 20 [R. E. 2022], I have moved to grant bail to the applicant. However, in order to be released from custody, the applicant

must fulfil the following conditions:

1. Applicant have to register two (2) reliable sureties who are able to execute bail bond amounting to Tanzanian Shillings Two Million Only (2,000,000/=) each of them.
2. Both must have introduction letter from the leaders of street they resides.
3. Both must have NIDA card/number in the introduction letter.
4. One of them must have immovable property within Mara Region.
5. Accused person is restricted to move out of Musoma Municipal unless he obtain permit from Deputy Registrar of the High Court.
6. Accused person to report to Deputy Registrar of the High Court every first Monday of every month. To appear when needed any day and time. Page 3 of 4 The Bail conditions set out in this Ruling shall be supervised by the Deputy Registrar of this court at Musoma Sub-Registry. It is so ordered. M. L. KO MBA JUDGE 23 December 2024 Ruling delivered in chambers under the seal of this court in the presence of Mr. Jonas Kivuyo and Joyce Matimbwi for Republic and Applicant was represented by Mr. Wambura Kisika. UK M. L. KOMBA JUDGE 23 December, 2024 Page 4 of 4

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