

TANZANIA / JUDGMENT

YUSUPH JOHN KIMEUMANA RULING 0001

COURT
TANZLIIDECIDED
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THE UNITED REPUBLIC OF TANZANIA (JUDICIARY) THE HIGH COURT (MUSOMA SUB
REGISTRY AT MUSOMA) Misc. CRIMINAL APPLICATION No. 889 of 2025 {Arising from the High
Court [Musoma Sub Registry] in Criminal Session Case No. 33329 of 2025 & the Resident
Magistrate Court in Preliminary Inquiry Case No. 172 of 2024) YUSUPH JOHN @ KIMEUMANA
CHARLES MARWA @ ISAYA *7.... APPLICANTS Versus
REPUBLIC..... RESPONDENT

RULING

10.02.2025 & 11.02.2025 Mtulya, J.: Mr. Yusuph John @ Kimeumana and Mr. Charles Marwa @ Isaya (the applicants) are prosecuted in this court for allegation of manslaughter of Omary Maseko @ Mwita (the deceased) contrary to section 195 and 198 of the Penal Code [Cap. 16 R.E. 2022] (The Penal Code). The applicants were committed in this court on 8th January 2025 by the Resident Magistrate Court of Musoma at Musoma (the committing court) in Preliminary Inquiry Case No. 172 of 2024 (PI case) after completion of the committal proceedings. The applicants had initially enjoyed bail in the committing court, but it was cancelled when they were brought in this court to reply the information of manslaughter in Criminal Session Case No. 33329 of 2024 (the case). The case is yet to be set for plea taking and preliminary hearing and the applicants intend to enjoy freedom of movement hence had instructed Mr. Emmanuel Paul Mng'arwe, learned counsel, to register the instant application seeking for bail to the applicants pending hearing and determination of the case. Yesterday afternoon Mr. Mng'arwe was summoned in this court to explain the reasons in favour of the application, and had produced four (4) reasons, namely: first, bail is a constitutional rights under article 13 (6) (b) of the Constitution of the United Republic of Tanzania [Cap. 2 R.E. 2002]; second, the offence of manslaughter is bailable; third, the applicants had previously enjoyed bail without any breach of the condition during committal proceedings in the committing court; and the applicants have reliable sureties to meet bail conditions. The reasons in favour of the application were not protested by Ms. Happiness Machage, learned State Attorney. For her, this court may admit the applicants to bail save for appropriate conditions that will make the applicants appear to reply their case in this court. I have perused the record and found that the applicants are prosecuted for manslaughter of the deceased and during committal proceedings at the committing court had prayed and granted bail without any breach of conditions, which is an important factor in considering bail applications. The law regulating bail to accused persons prosecuted for manslaughter is enacted in Criminal Procedure Act [Cap. 20

R.E 2022] (the Act) and found support in the Constitution of the United Republic of Tanzania [Cap. 2 R.E 2002] (the Constitution). The specific provisions on the subject are 2 enacted in section 148 (1), (6) & (7) of the Act and articles 13 (6)

(b) & 17 (1) of the Constitution. The indicated provisions of the law have already received interpretation of this court in a bundle of precedents (see: Emmanuel Nguka @ Anditi v. Republic, Misc. Criminal Application No. 25 of 2023; Maruru Zabron v. Republic, Misc. Criminal Application No. 24 of 2023; and Daniel Philimon Dinda v. Republic, Misc. Criminal Application No. 20710 of 2024. Having the law and practice on the subject, I have no any hesitation in committing the applicants to bail, as I hereby do so. However, before the enjoyment of freedom of movement, the applicants must fulfill the following conditions, namely:

1. Each applicant must sign bail bond to the tune of Tanzania Shillings Three Million Only (3,000,000/=);
2. Each applicant must register two (2) reliable sureties who are able to execute bail bond amounting to Tanzania Shillings One Million Only (1,000,000/=);
3. The sureties must be in possession of National Identification Card issued by the National Identification Authorities (NIDA) or if they are employed in government service, they must register work identification card;
4. The sureties must be residents of Mara Region and verify their stay in the region by presenting introduction letters from their respective Hamlet or Mtaa chairpersons; 3
5. The applicants should not leave Mara Region without prior written authorization of the Deputy Registrar of this Sub Registry or District Resident Magistrate In-charge of the District Court of Butiama at Butiama;
6. The applicants must report to the to the Deputy Registrar of this Sub Registry or District Resident Magistrate In-charge of the District Court of Butiama at Butiama once on every last Monday of every Month; and
7. The applicants must surrender their passports or any other travelling documents to the Deputy Registrar of this Sub Registry or District Resident Magistrate In-charge of the District Court of Butiama at Butiama. The listed bail conditions in this Ruling shall be supervised by the Deputy Registrar of this Sub Registry or District Resident Court: This Ruling was delivered in Chambers under the Seal of this court in the presence of the applicants, Mr. Yusuph John and Mr. Charles Marwa @ Isaya and their learned counsel Mr. Emmanuel Paul Mngarwe and in the presence of Ms. Happiness Machage, learned State AttomaAfor the respondents----- F. H. Mt^lyaJ Judge 11.02.2025 4

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